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## Guide to the Model Questionnaires on **incoming** International Value Transfers

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**Federation of the Dutch Pension Funds**

On behalf of approximately 189 Dutch pension funds, the Federation of the Dutch Pension Funds represents the interests of:

- 5,9 million members
- 3,6 million pensioners
- 9,7 million deferred members.

The majority of the working population in the Netherlands is a member of a collective pension fund.

The pension funds affiliated with the Federation of the Dutch Pension Funds collectively manage approximately 1700 billion in funds.

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**Dutch Association of Insurers**

The Dutch Association of Insurers is the trade association of non-life and life insurers. We represent more than 95 percent of all insurers in the Netherlands. Reinsurers, insurtechs, premium pension institutions and companies involved in bank savings are also affiliated with us.

**About the Dutch insurance sector**

- 47.000 employees
- 270 billion euros in investments in the Netherlands
- 490 billion of assets under management
- 72 billion in premiums received per year

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Federation of the Dutch Pension Funds  
Dutch Association of Insurers  
The Hague, may 2022

## Guide to the Model Questionnaires on incoming International Value Transfers

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### A joint initiative of:

Federation of the Dutch Pension Funds

(*Pensioenfederatie*)

Dutch Association of Insurers

(*Verbond van Verzekeraars*)

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## General

### 1. Introduction

Certain provisions concerning international value transfers (also known as international transfer payments) for individual persons are incorporated in the Dutch Pensions Act (*Pensioenwet*). These provisions impose obligations on pension administrators (pension funds). Thus, a pension administrator is obliged to co-operate in certain situations and must decide itself whether the statutory conditions are met. In other situations the pension administrator has a discretionary power to decide whether or not to co-operate; in these cases too, certain statutory conditions apply. The pension administrator has a personal responsibility with regard to international individual value transfers.

As a service, the pension associations together with their members have developed the Guide and Questionnaires to help Dutch pension administrators deal with these obligations and responsibilities. The aim of the Guide and the Questionnaires is to facilitate the practicalities of international value transfers and simplify the appraising of such transactions on legal and other aspects. It should, however, be noted that a completed (model) questionnaire does not discharge the Dutch pension administrator of the responsibility for checking whether the responses truly correspond with the submitted documentation and pension scheme regulations.

This Guide refers to international individual value transfers of work related pensions in the second pillar. This Guide doesn't refer to value transfers of third pillar individual annuities.

### 2. Model Questionnaires

The Working Group has developed two model questionnaires which can be used by any Dutch pension administrator to process an incoming international individual value transfer request. These model questionnaires enable the Dutch pension administrator to assess uniformly and easily whether an incoming international value transfer request can or cannot be honoured. They also provide information and assistance to the foreign pension administrator and the pension scheme participant.

In these model questionnaires the statutory requirements have been re-expressed as questions that have to be answered by the foreign pension-paying institution and the pension scheme participant requesting an international value transfer. The model questionnaires also provide the foreign pension-paying institution and the pension scheme participant with relevant supplementary information about international value transfers to the Netherlands, in the form of brief explanations.

Each model questionnaire covers a specific transfer situation.

- The first questionnaire covers incoming individual value transfers from a pension-paying institution in another member state of the European Union (EU) or European Economic Area (EEA)<sup>1</sup>, or an insurer having its registered office outside the Netherlands;
- The second questionnaire covers incoming individual value transfers from a pension-paying institution established outside the EU.

The model questionnaires are to be used as follows. Whenever an incoming international value transfer is requested, the Dutch pension administrator can select the appropriate questionnaire and send it – possibly via the requester – to the foreign pension-paying institution<sup>2</sup>. The model questionnaires can be downloaded from the website of the [Federation of the Dutch Pension Funds](#) and of the Dutch Association of Insurers.

Some of the questions specifically concern the pension scheme participant submitting the request, and the foreign pension-paying institution must get the requester to answer them. When the questionnaire has been returned, the appraisal can be conducted.

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<sup>1</sup> The European Economic Area (EEA) comprises all European Union member countries plus Liechtenstein, Norway and Iceland.

<sup>2</sup> The model questionnaires have been translated into English.

### 3. Provisions of the Pensions Act

This section briefly summarises the relevant provisions of the Pensions Act (PW). International individual value transfers are governed by Articles 85 to 89 inclusive and by Articles 91 and 92 of the Pensions Act. The Act describes a large number of situations involving an international value transfer and defines the statutory requirements for each of these situations. A distinction is drawn between incoming (Articles 91 and 92) and outgoing international value transfers (Article 85 to 89 including). Within each category a further distinction is then drawn between those value transfers where the Dutch pension administrator is obliged to co-operate, and those where it has a discretionary power to co-operate, depending on the nature of the foreign pension-paying institution concerned, and whether the institution is or is not established in an EU Member State.

The model questionnaires have been developed to cover *incoming* international value transfers. A separate Guide has been issued for *outgoing* international value transfers.

Article:	Description:
Art. 91 PW <sup>3</sup>	Obligation to co-operate with an incoming international value transfer from a pension-paying institution in another Member State or from an insurer having its registered office outside the Netherlands, at the employees request
Art. 92 PW	Discretionary power to co-operate with an incoming international value transfer from a foreign pension-paying institution at the employees request

If the Dutch pension administrator is obliged to co-operate with an incoming international value transfer under Article 91 PW, no costs may be charged to the participant by that administrator. If the Dutch pension administrator has the discretionary power based on Article 92 to do so, it may charge the costs, but those costs must not, in principle, be deducted from the transfer value.

The pension scheme participant's partner who is beneficiary of the partner's pension must also agree to the value transfer if the request for value transfer comprises the partner's pension.<sup>4</sup> For this purpose, the partner must explicitly countersign the value transfer request.

### 4. Fiscal legislation

An international value transfer in the context of an acceptance of employment within the Netherlands does not entail fiscal consequences (*i.e.* no tax is levied under certain conditions), pursuant to the Decree (*Besluit*) of October 9, 2015, No. DGB 2015/7010M (International aspects of pensions)<sup>5</sup>. If the (Dutch) fiscal conditions are not met, the transfer value will classify as wages (from previous employment). Income tax will have to be withheld on the transfer value by the receiving (Dutch) pension administrator that has a withholding obligation. The pension administrator can not refuse a request based on Article 91, but will inform the pension scheme participant (that is: warn and/or advise against the request for value transfer) of the fiscal consequences. A request based on Article 92 can be refused by the pension administrator.

The conditions imposed by this Decree have been re-expressed as questions and incorporated in the model questionnaires. Consequently the model questionnaires may also be used to verify, for tax purposes, whether the conditions have been met.

<sup>3</sup> Pensioenwet.

<sup>4</sup> If the partner does not agree, only the retirement pension may be transferred.

<sup>5</sup> This Decree can be found here (Dutch only) <https://wetten.overheid.nl/BWBR0037121/2015-10-28>

## 5. Agreement with Tax Administration, the Ministry of SZW and DNB

The first version of this “Guide to the Model Questionnaires on International Value Transfers” has been discussed with the Tax and Customs Administration Limburg (Foreign Countries Office), the Ministry of Social Affairs and Employment and De Nederlandsche Bank. Both DNB (as supervisory agency for pension funds) and the Tax and Customs Administration have informed the pension fund associations that they welcome this standardisation initiative, because this uniform procedure by pension administrators will promote operational efficiency within the pensions sector and proper compliance with the statutory provisions. The Tax and Customs Administration had at that time confirmed that a Dutch tax pension administrator would be informed by the Tax and Customs Administration whenever it is relieved of fiscal liability under the Collection of State Taxes Act.

The fully updated version was re-aligned with the same parties in 2021.

## 6. General information

On completion and after signing the applicable ‘Model Questionnaire Value Transfer’ the questionnaire should be sent to the Dutch pension administrator for further assessment of the request for international value transfer.

## Model Questionnaire for Value Transfers within the EU

### Explanatory note

Under Article 91 of the Pensions Act, a Dutch pension administrator is obliged to co-operate with a value transfer to the Netherlands from a pension-paying institution in another EU or EEA Member State or an insurer with a registered office outside the Netherlands. This provision includes a number of statutory conditions which have been re-expressed as questions in the questionnaire below.

The model questionnaire also provides the foreign pension-paying institution and the pension scheme participant with relevant supplementary information about international value transfers to the Netherlands, in the form of brief explanations. The purpose of this is to provide information and assistance to the foreign pension administrator and the pension scheme participant with regard to the process of incoming international value transfers.

The purpose of an international value transfer is to enable the person making such a request to acquire pension entitlements with a *Dutch pension administrator*. The annex to this questionnaire explains what is meant by a Dutch pension administrator.

The person submitting an international value transfer request must realise that he cannot claim any tax deduction, on account of the international value transfer, on any income of himself or his partner that is taxable in the Netherlands.

**No** costs may be charged to the pension scheme participant by the Dutch pension administrator in connection with an international value transfer.

### Questionnaire

#### Question: Subject:

Yes: No:

		Yes:	No:
1	<p>Can your pension-paying institution be classified as either:</p> <ul style="list-style-type: none"> <li>• a pension-paying institution in another Member State of the European Union (EU) or European Economic Area (EEA),</li> <li>• an insurer with registered office outside the Netherlands?</li> </ul> <p>The Annex to this Model Questionnaire explains what is meant by such a pension-paying institution.</p>	<input type="checkbox"/>	<input type="checkbox"/>
2	<p>Is an outgoing international value transfer permitted by your country's legislation and regulations, and are you prepared (as a pension-paying institution) to co-operate with a requested international value transfer to a Dutch pension administrator?</p> <p><i>Explanation:</i>  <i>A value transfer from your pension-paying institution to a Dutch pension administrator is only possible if your legislation and regulations permit outgoing international value transfers.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Question: Subject:

Yes: No:

3	<p>Do your legislation and regulations impose conditions on a outgoing international value transfers?</p> <p>If so, what are those conditions?</p> <hr/> <hr/> <hr/> <p><i>Explanation:</i>  <i>The Dutch pension administrator will assess, in the light of your description, whether these conditions are in accordance with pension legislation and then form an opinion whether it is possible to co-operate with the incoming international value transfer as envisaged.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
4	<p><b><i>This question is only to be answered if a <u>partner's pension</u> is also entailed.</i></b></p> <p>Has the partner, i.e. the beneficiary of the partner's pension, countersigned the international value transfer request?</p> <p><i>Explanation:</i>  <i>If a partner's pension forms part of the pension value to be transferred, the partner must also concur with the international value transfer request.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
5	<p>Will your pension-paying institution transfer the transfer value of the pension capital directly to the Dutch pension administrator?</p> <p><i>Explanation:</i>  <i>There is a Dutch fiscal requirement to the effect that the value transfer must go directly from the transferring pension-paying institution to the receiving pension-paying institution.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Full name and address of transferring pension administrator:

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Signed (on behalf of pension administrator):

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Name of signatory:

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Telephone number of signatory:

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E-mail address of signatory:

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Position:

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Date:

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Name of present or former pension scheme participant:

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Signature of present or former pension scheme participant:

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Name of partner (if any):

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Signature of partner (if any):

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Date:

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## Annex to Model Questionnaire for Value Transfers within the EU

### *Pension-paying institution*

Question 1 of the model questionnaire reads as follows:

1	<p>Can your pension-paying institution be classified as either:</p> <ul style="list-style-type: none"> <li>• a pension-paying institution in another Member State of the European Union (EU) or European Economic Area (EEA),</li> <li>• an insurer with registered office outside the Netherlands?</li> </ul>	□	□
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A pension-paying institution in another Member State of the European Union (EU) or European Economic Area (EEA) is understood to mean:

- A fully funded institution, regardless of its legal form, that has its registered office in a Member State other than the Netherlands and has been constituted as an entity independent of any contributing enterprise or business sector, having as its aim the payment of employment-related pension benefits under an agreement concluded:
  - individually or collectively between one or more employers and one or more employees or their respective representatives; or
  - with self-employed persons
 and pursuing activities that are directly related thereto.

An insurer with registered office outside the Netherlands<sup>6</sup> is understood to mean:

- an insurer who is qualified under Dutch legislation to conclude pension insurance arrangements within or into the Netherlands.

### *Dutch pension administrator*

The communication cited below refers to the term “Dutch pension administrator”:

The purpose of the value transfer must be to enable the person, submitting the international value transfer request, to acquire pension entitlements with a *Dutch pension administrator*.

A Dutch pension administrator is understood to be:

- a corporate pension fund;
- an occupational pension fund;
- an industry-sector pension fund;
- a general pension fund
- a premium pension institution or
- an insurer with registered office in the Netherlands.

<sup>6</sup> Pensioenwet, Article 23, lid 1, c.

## Model Questionnaire for Value Transfers outside the EU

### Explanatory note

Article 92 of the Pensions Act governs the discretionary power to co-operate with a value transfer from a foreign institution. A foreign institution is understood to be an institution having its registered office outside the Netherlands that is not a pension-paying institution in another Member State, an insurer with registered office outside the Netherlands, the European Union or a designated institution. More specifically this concerns the discretionary power to co-operate with an incoming international value transfer from a pension-paying institution established outside the EU.

The discretionary power to co-operate with an incoming international value transfer is subject to certain conditions which have been re-expressed as questions in the questionnaire below. Once all questions have been answered, the Dutch pension administrator can assess whether the international value transfer process is to be continued and completed.

By means of brief explanations with the questions asked, the questionnaire also provides relevant supplementary information about international value transfers to the Netherlands. The purpose of this is to provide information and assistance, with regard to the process of incoming international value transfers, to the foreign pension administrator and the pension scheme participant.

The purpose of an international value transfer is to enable the person making such a request to acquire pension entitlements with a *Dutch pension administrator*. The annex to this questionnaire explains what is meant by a Dutch pension administrator.

The person submitting an international value transfer request must realise that he cannot claim any tax deduction, on account of the international value transfer, on any income of himself or his partner that is taxable in the Netherlands.

### Questionnaire

#### Question: Subject:

#### Yes: No:

<b>1</b>	<p>Is an outgoing international value transfer permitted by your country's legislation and regulations, and are you prepared (as a pension-paying institution) to co-operate with a requested international value transfer to a Dutch pension administrator?</p> <p><i>Explanation:</i>  <i>A value transfer from your pension-paying institution to a Dutch pension administrator is only possible if your legislation and regulations permit outgoing international value transfers.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Question: Subject:

Yes: No:

2	<p>Do your legislation and regulations impose conditions on a outgoing international value transfers?</p> <p>If so, what are those conditions?</p> <hr/> <hr/> <hr/> <p><i>Explanation:</i>  <i>The Dutch pension administrator will assess, in the light of your description, whether these conditions are in accordance with Dutch pension legislation and then form an opinion whether it is possible to co-operate with the incoming international value transfer as envisaged.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
3	<p><b><i>This question is only to be answered if a <u>partner's pension</u> is also entailed.</i></b></p> <p>Has the partner, i.e. the beneficiary of the partner's pension, countersigned the international value transfer request?</p> <p><i>Explanation:</i>  <i>If a partner's pension forms part of the pension value to be transferred, the partner must also concur with the international value transfer request.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
4	<p>Will the transfer value of the pension capital be transferred by your pension-paying institution directly to the Dutch pension administrator?</p> <p><i>Explanation:</i>  <i>There is a Dutch fiscal requirement to the effect that the value transfer must go directly from the transferring pension-paying institution to the receiving pension-paying institution.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Full name and address of transferring pension administrator:

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Signed (on behalf of pension administrator):

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Name of signatory:

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Telephone number of signatory:

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E-mail address of signatory:

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Position:

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Date:

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Name of present or former pension scheme participant:

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Signature of present or former pension scheme participant:

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Name of partner (if any):

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Signature of partner (if any):

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Date:

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## Annex to Model Questionnaire for Value Transfers outside the EU

### *Dutch pension administrator*

The communication cited below refers to the term “Dutch pension administrator”:

The purpose of the value transfer must be to enable the person, submitting the international value transfer request, to acquire pension entitlements with a *Dutch pension administrator*.

A Dutch pension administrator is understood to be:

- a corporate pension fund;
- an occupational pension fund;
- an industry-sector pension fund;
- a general pension fund;
- a premium pension institution or
- an insurer with registered office in the Netherlands.

### Foreign institution

A foreign institution is understood to be:

An institution having its registered office outside the Netherlands that is not a pension-paying institution in another Member State, an insurer with registered office outside the Netherlands, the European Union or a designated institution.