



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

A joint initiative of:

Dutch Pension Fund Federation
(*Pensioenfederatie*)
Dutch Association of Insurers
(*Verbond van Verzekeraars*)

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Guide to the Model Questionnaires on incoming International Value Transfers

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1. Introduction

Effective January 1, 2007 certain provisions concerning international value transfers (also known as international transfer payments) for individual persons were incorporated in the Dutch Pensions Act (*Pensioenwet*). Some of these provisions impose new obligations on pension administrators (pension funds). Thus, a pension administrator is now 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 thereby acquired a personal responsibility with regard to international value transfers.

All Dutch pension administrators have to deal with these new obligations and responsibilities under the Pensions Act, entailing a heavier administrative burden and greater liability risks.

The pension fund associations and certain pension administrators have recognised this and have developed a common approach by means of a Working Group. The *Pensioenfederatie* and *Verbond van Verzekeraars*, as well as the pension scheme administrators APG, Syntrus Achmea, Nationale-Nederlanden, DSM Pension Services, PGGM and the Dutch Shell Pension Fund have all participated in this “Joint Working Group on International Value Transfers”.

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.

2. Model Questionnaires

To achieve this aim the Working Group has developed two model questionnaires which can be used by any Dutch pension administrator to process an incoming international 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 present or former 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 present or former pension scheme participant requesting an international value transfer. The model questionnaires also provide the foreign pension-paying institution and the present or former 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 value transfers from a pension-paying institution in another member state of the European Union (EU) or European Economic Area (EEA)¹, or an insurer having its registered office outside the Netherlands;
- The second questionnaire covers incoming value transfers from a pension-paying institution established outside the EU.

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

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 institution².

Some of the questions specifically concern the present or former 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 (simplified) appraisal can be conducted. Once all questions have been answered, the Dutch pension administrator can assess whether the international value transfer process is to be continued and completed.

3. Provisions of the Pensions Act

This section briefly summarises the relevant provisions of the Pensions Act (PW). International value transfers are governed by Articles 85 to 92 inclusive. 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 and outgoing international value transfers. 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 EC 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 ³	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 present or former pension scheme participant's request
Art. 92 PW	Discretionary power to co-operate with an incoming international value transfer from a foreign pension-paying institution at the present or former pension scheme participant's 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 by that administrator. If the Dutch pension administrator has the discretionary power 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 must also agree to the value transfer.⁴ 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), pursuant to the Decree (*Besluit*) of January 31, 2008, No. CPP 2007/98M, Government Gazette (*Staatscourant*) 2008, No. 27 (International aspects of pensions).

The conditions imposed by this Decree have likewise 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.

² The model questionnaires have been translated into English.

³ Pensioenwet.

⁴ If the partner does not agree, only the retirement pension may be transferred.

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. Once all questions have been answered, the Dutch pension administrator can assess whether the international value transfer process is to be continued and completed.

The model questionnaire also provides the foreign pension-paying institution and the present or former 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 present or former 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 by the Dutch pension administrator in connection with an international value transfer.

Questionnaire

Question: Subject:

Yes: No:

1	<p>Can your pension-paying institution be classified as either:</p> <ul style="list-style-type: none"> • a pension-paying institution in another Member State of the European Union (EU) or European Economic Area (EEA), • an insurer with registered office outside the Netherlands? <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> 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.</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 the Dutch Pensions Act 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><i>This question is only to be answered if a <u>partner's pension</u> is also entailed.</i></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 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:

- Signed (on behalf of pension administrator):

- Name of signatory:

- Telephone number of signatory:

- E-mail address of signatory:

- Position:

- Date:

- Name of present or former pension scheme participant:

- Signature of present or former pension scheme participant:

- Name of partner (if any):

- Signature of partner (if any):

- Date:

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"> • a pension-paying institution in another Member State of the European Union (EU) or European Economic Area (EEA), • an insurer with registered office outside the Netherlands? 	□	□
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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 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 premium pension institution or
- an insurer with registered office in the Netherlands.

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, one of the European Communities or a designated institution. Article 92 of the Pensions Act applies in those situations where there is no obligation to co-operate pursuant to Article 91 of the Pensions Act. 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 present or former 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:

1	<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"/>
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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 the Dutch Pensions Act 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"/>
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3	<p><i>This question is only to be answered if a <u>partner's pension</u> is also entailed.</i></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"/>
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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"/>
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- Full name and address of transferring pension administrator:

- Signed (on behalf of pension administrator):

- Name of signatory:

- Telephone number of signatory:

- E-mail address of signatory:

- Position:

- Date:

- Name of present or former pension scheme participant:

- Signature of present or former pension scheme participant:

- Name of partner (if any):

- Signature of partner (if any):

- Date:

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 premium pension institution or
- an insurer with registered office in the Netherlands.