Complementary and Private Pensions throughout the World 2008







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Preface

Complementary and Private Pensions throughout the World 2008 updates the 2003 edition providing in-depth information on the regulation and supervision of voluntary and mandatory complementary and private pension schemes for 58 countries. The information provided will support efforts to review public policy in this area, providing guidance to the competent authorities in order to adapt existing regulatory and supervisory systems to new needs and challenges. This volume also constitutes a unique reference guide for employers, providers and students of the pensions industry. It offers the basis for comparative studies and international learning processes which will contribute to the strengthening of the security of complementary and private pension scheme members.

Complementary and Private Pensions throughout the World 2008 is the product of the cooperative efforts of the International Social Security Association (ISSA), the International Organisation of Pension Supervisors (IOPS) and the Organisation for Economic Co-operation and Development (OECD).

Complementary and Private Pensions throughout the World 2008 is based on information available to the ISSA, IOPS and OECD generally with regard to legislation in effect in 2005 and 2006. The information included is drawn from various sources but is primarily provided, and verified, by the regulatory and supervisory authorities that are ISSA, IOPS or OECD members.

Questions about the publication, corrections, updated information and copies of relevant material and legislation are welcome and should be sent to:

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Guide to Reading the Country or Territory Profiles

Complementary and Private Pensions throughout the World 2008 (CPPTW 2008) constitutes an important source of information on old-age pension provision around the world. It is complementary (and in some cases supplementary) to the information on social security schemes provided in *Social Security Programs Throughout the World* (SSPTW). SSPTW is the result of the cooperative efforts of the International Social Security Association (ISSA) and the US Social Security Administration. When read together, CPPTW 2008 and SSPTW provide detailed information on countries' social security and complementary systems of retirement income provision.

CPPTW 2008 details the regulation and supervision pertaining to complementary and private pensions in 58 countries, territories and jurisdictions[1]. Other countries have been excluded because either they do not have a system of complementary and private pensions or up-to-date information of sufficient depth and quality is not yet available to the ISSA, IOPS or OECD.

The profiles in CPPTW 2008 are organized by geographical region and are based on laws and regulations in force at the following dates:

AFRICA	**01-01-2005**	**EUROPE**	**01-01-2006**
AMERICAS	**01-07-2005**	**ASIA & PACIFIC**	**01-07-2006**

Tables collating information for each country on the types of retirement income provision, methods of implementing voluntary complementary and private pension plans, key legal rules concerning voluntary and mandatory complementary and private pensions as well as related demographic and financial statistics are included.

CPPTW 2008 covers mandatory occupational and personal schemes and voluntary occupational plans. Voluntary personal plans are not included except where they interact directly with other types of plans (for more information, see the paragraph on classification of complementary and private pensions below). The information on occupational plans is generally that applying to private-sector employees, as public-sector employees, particularly civil servants, are frequently covered by separate systems. While it is mentioned whether arrangements for public-sector employees and self-employed persons exist and whether they are covered by similar or separate regulatory systems, these separate systems are not described in any detail. Publicly managed social security schemes are mentioned where they interact with complementary and private pensions.

The functioning of complementary and private pension systems is based on a large number of preconditions beyond their specific regulation and supervision, e.g. regulated and transparent financial markets, protection and enforcement of property rights, a sound banking system etc. The information in CPPTW 2008 focuses on the direct regulation and supervision of complementary and private pensions

[1] The term country has been used throughout this report even though in some instances the term territory or jurisdiction may be more appropriate.

and does not describe in any detail the laws and regulations that establish the general framework in which they and other financial products operate.

The degree of regulation of complementary and private pensions differs largely between countries. In addition, while most features of mandatory schemes are regulated in detail, some choice concerning contribution rates, pensionable age, types of benefits etc. is often left to the sponsors in the case of voluntary plans. For issues not regulated by law, information on the practice under typical plans/schemes is provided where available.

Since the country or territory profiles are intended to provide a measure of comparison across countries, efforts have been made to develop and use standard technical terms. The terminology may therefore differ from national concepts or usage. Brief definitions of the most important terms used throughout this report are included in a Glossary at the end. The term "scheme" is used throughout the country profiles for mandatory complementary and private pension arrangements and the term "plan" is used for voluntary arrangements (in few cases specific national terminology may be used instead of this classification). The term "system" is used to refer to the entire set of plans or schemes that have been established in a country or territory in line with the applicable laws and regulations.

Sources of information

Most of the information in this report was collated from the Complementary and Private Pensions throughout the World Survey conducted by the ISSA. ISSA, IOPS and OECD members are the primary correspondents for the survey and have provided and verified the information included in the respective country profiles. Correspondents that are not members of the ISSA, IOPS and OECD include:

Dominican Republic:	Hernando Pérez Montás, Presidente, Consultores Actuariales S.A.
United States:	John Turner, formerly Senior Policy Advisor, AARP, and Dana Muir, Pension Law Professor, Ross School of Business, University of Michigan.

Data for certain countries was also provided by researchers and professionals in the area of complementary and private pensions. Other important sources of information include relevant national legislation, articles, reports and other documents held in the ISSA Documentation Centre and web sites of governmental and other bodies concerned with voluntary and mandatory complementary and private pensions. Information was also received from the OECD and IOPS. During the compilation process, international analysts at the ISSA, IOPS and OECD examined the material for factual errors, ambiguous statements, and contradictions in material from different sources.

Complementary and private pensions and social security

The term complementary and private pensions covers all plans/schemes that are complementary to another system of retirement income and/or are administered by private institutions. Most plans/schemes that are described in this report integrate both characteristics and are complementary to a basic publicly managed social security scheme and are managed by an entity of private law. Some schemes, however, are either complementary but managed by a public institution or constitute the basic social security scheme of a country but are managed by a private institution.

Inclusion of a system of complementary and private pension plans/schemes in this report does not by any means imply that it does not belong to a country's or territory's social security system. While the classification as social security depends on a country's specificities, mandatory complementary and private pension schemes are generally considered as forming part of social security. In detailing information, the country or territory profiles therefore sometimes differentiate between publicly managed and privately managed social security schemes.

Since this report includes information on systems classified as social security, some overlap with SSPTW exists for a number of countries. While SSPTW focuses mainly on the benefit qualifying conditions and benefit structure of mandatory occupational and personal pension schemes, this report provides considerable additional information concerning the administration and supervision of these schemes. Table 1 shows the schemes for which information can be found in both CPPTW 2008 and the relevant regional volume of SSPTW.

Classification of complementary and private pensions

The classification of complementary and private pension plans/schemes in this report is generally in line with the taxonomy for pension plans, pension funds and pension entities developed by the OECD Working Party on Private Pensions. This taxonomy classifies complementary and private pension plans/schemes along two dimensions: occupational or personal and voluntary or mandatory.

Occupational or personal

Complementary and private pension plans/schemes may be occupational or personal. Membership in an occupational plan/scheme is linked to an employment relationship while such linkage is not needed in the case of personal plans/schemes.

Occupational plans/schemes may be established and sponsored by employers, either singly or as a group, and may sometimes be based on collective bargaining agreements between employer(s) and employees and/or trade unions. The plan sponsor is generally required to make contributions, but members may also be required to contribute. Membership of an occupational plan/scheme depends on the decision of employers to sponsor or co-sponsor a plan/scheme and cover some or all of their employees in line with legal rules concerning nondiscrimination.

In the case of personal plans/schemes, individuals choose between different providers and plans/schemes without intervention of their employers who may nonetheless contribute. Personal pension plans/schemes are usually established and offered to individuals by financial institutions or specialist single purpose entities.

Mandatory or voluntary

Occupational and personal complementary and private pension plans/schemes may be voluntary or mandatory.

Mandatory occupational schemes: Legislation requires an employer to sponsor an occupational pension scheme or co-sponsor or participate in a scheme established by a group of employers, and to

affiliate covered employees to the scheme in accordance with legal rules. The categories of employees to be covered are usually defined by law and not by the scheme sponsor. The mandate to provide for membership of covered employees in a mandatory occupational scheme falls on the employer.

Mandatory personal schemes: Legislation requires that covered individuals become members of a personal pension scheme. In this case the mandate falls on the individual to choose a private pension scheme to join without the intervention of their employers.

Voluntary occupational plans: These plans are established voluntarily by employers, either singly or as a group. Plans are classified as voluntary even if participation of covered employees is required by law once their employer has established a plan. In some countries, employers may, on a voluntary basis, establish occupational plans that at least partially replace benefits provided under a publicly managed social security scheme in return for a rebate of social security contributions. These plans are classified as voluntary even if employers must continue sponsoring these plans in order to be (fully or partially) exempted from social security contributions. In some countries occupational plans are based on industry-wide collective agreements between employers' federations and trade unions under which it is mandatory for employers covered, and in some cases also for employers not covered, by the collective agreement to sponsor or co-sponsor an occupational pension plan or participate in the industry-wide plan. These plans are classified as voluntary, as the initiative to negotiate an industry-wide agreement is based on the voluntary decision of employer and employee representatives and not on legislation.

Voluntary personal plans: The membership of these plans is based on the decisions of individuals who are not required by law to become members of a plan. In some countries voluntary personal plans may become mandatory once the individuals decide to join if the plans at least partially replace benefits provided under a publicly managed social security scheme. However, as the basic decision to join a plan is based on the choice of the individual, these plans are classified as voluntary.

The country or territory profiles in each region in CPPTW 2008 are separated into two parts: mandatory occupational and personal pension schemes and voluntary occupational pension plans.

Format of country or territory profiles

The information in the country or territory profiles of this report has been collected and structured in line with the ISSA Guidance Notes for Completion of Country or Territory Profile on voluntary and mandatory complementary and private pension plans/schemes.

The ISSA Guidance Notes for Completion of Country or Territory Profile consist of a set of structured questions that guided the correspondents of the Complementary and Private Pensions throughout the World Survey and the authors of this report in order to provide coherent and comparable information across all countries. It may be, however, that answers to one or several questions have not been received for a specific country and corresponding information is therefore missing in the country or territory profile.

Each country or territory profile is divided into nine main sections that are further subdivided where necessary:

Regulatory Framework
Plan Profile / Types of Schemes
Institutional Framework
Coverage
Financing / Investment
Benefit Provisions
Protection of Rights
Tax Treatment
Regulatory and Supervisory Authorities

In order to take account of material differences in the regulation of voluntary and mandatory complementary and private pension plans/schemes, the presentation of the information differs slightly between voluntary plans and mandatory schemes. The main differences relate to information on plan sponsors, vesting and waiting periods that is provided only for voluntary occupational plans and to information on coverage, disability and survivor benefits that are usually regulated in more detail under mandatory schemes. The set of Guidance Notes included in this report apply to both voluntary plans and mandatory schemes unless indicated otherwise. Where information is divided into two columns, the information relevant to voluntary plans is in the left hand column and that relevant to mandatory schemes is in the right hand column.

Countries or Territories that Responded to the Complementary and Private Pensions throughout the World Survey

Argentina	Croatia	Japan	Romania
Australia	Denmark	Kazakhstan	Slovak Republic
Austria	Dominican Republic	Liechtenstein	Slovenia
Bangladesh	El Salvador	Luxemburg	South Africa
Belgium	Estonia	Macedonia	Spain
Bermuda	Finland	Malaysia	Sweden
Bolivia	France	Mexico	Switzerland
Botswana	Germany	Moldova	Thailand
Brazil	Hong Kong, China	Netherlands	Tunisia
Bulgaria	Hungary	New Zealand	United States
Canada	Iceland	Norway	Uruguay
Chile	Indonesia	Peru	Zambia
Colombia	Ireland	Poland	Zimbabwe
Costa Rica	Israel	Portugal	

Guidance Notes for Completion of Country or Territory Profiles

Regulatory Framework

This section includes the sources of state regulations concerning voluntary / mandatory complementary and private pension plans / schemes.

Quote date and name for all of the following which are relevant:

- law(s) on voluntary / mandatory complementary and private pension plans / schemes;
- tax law(s);
- civil code;
- labour code;
- other.

Mention briefly after the name of the regulation which aspects are covered by it (e.g. conditions and approval for establishment, non discrimination, coverage, funding etc.).

Historical elements: mention if a law creates the possibility of establishing a plan / scheme, if it also regulates plans / schemes which were already in existence or if there were laws on voluntary plans on which mandatory schemes were built.

Note: Only state legislation is covered in this section. Plan / scheme rules or statutes etc. are not covered.

Voluntary

Plan Profile

Plan sponsors

Include information related to the establishment of a plan.

- Who is able or authorized by law to establish a plan (e.g. state, single and / or a group of employers, employee and employer representatives, individual employees etc.)? If necessary, mention any relationship / interdependence with the social security schemes, e.g. where contributing to a publicly managed social security scheme is compulsory unless contracted-out.
- Is it usually a particular type of plan sponsor

Mandatory

Types of Schemes

Include information related to the options regarding the types of schemes that may be established and explain who decides to which type of scheme a covered person is to be affiliated.

- What are the different types of schemes (e.g. single, multi-employer or industry-wide occupational scheme, open personal pension scheme etc.)?
- Who must arrange for membership and who may choose between different types of schemes? Do employers have to affiliate their employees to a scheme or do covered

Voluntary

who establishes a plan?
- Are collective agreements part of the process of establishing a plan? Who is involved in the bargaining process?

Types of plans

Include information related to the options available to plan sponsors regarding the types of plans they may establish and the procedures associated with obtaining approval from fiscal or other public authorities.

- What is the procedure for creating a plan and what approval does a plan require from tax authorities and / or supervisory authorities?
- What are the different types of, or possibilities to implement, plans (e.g. company plan, multi-employer plan, industry-wide plan, open or closed plan, contracted-out plan, insured plan etc.)?
- Is participation in the plan voluntary or compulsory for covered employees? Can employees make voluntary additional contributions to the same and / or another plan?

Mandatory

persons decide of which scheme they become a member?
- Mention whether schemes may be defined benefit and / or defined contribution. In the case of defined contribution schemes, do contributions accumulate in individual accounts?
- May the employer and / or member make additional voluntary contributions to the mandatory and / or another scheme?

Institutional Framework

Note: This part covers the plan / scheme management except asset management. Information on the latter is included in the section on asset management.

Voluntary

Include information about the types of institutions which govern and manage pension plans.

- Does the plan have a governing board and what is its composition (any legal or other requirements regarding number of employer, employee and / or retiree representatives, any other restrictions on who may or may not sit on the governing board)? What powers does the governing board have?

Mandatory

Include information about the types of institutions which govern and manage pension schemes and the procedure for obtaining approval for the schemes and scheme managers from supervisory or other public authorities.

- What is the procedure for creating a scheme and what approval does a scheme and / or its managing institutions require from supervisory and / or tax authorities?

Voluntary

- Is the plan managed by the sponsoring company or is the institution managing the plan separate from the sponsoring company (e.g. separate legal entity from sponsoring employer, trust, limited company etc.)? Is the institution managing the plan nonprofit-making or profit-making?
- Can the plan be managed entirely, or partially, by an insurance company (e.g. insured plan) on the basis of an insurance contract (e.g. through an individual and / or group policy)?
- Are there any other institutions involved in the collection or payment of contributions and / or benefits (other than any complaints resolution body such as an ombudsman and authorities covered in sections on protection of rights and regulatory and supervisory authorities respectively)?

Mandatory

- Who can be the manager of a scheme? Are there any professional or legal requirements concerning the scheme manager (e.g. capital adequacy requirements etc.)? Is the institution managing the scheme nonprofit-making or profit-making?
- Are mandatory occupational pension schemes managed by the sponsoring company or is the institution managing the scheme separate from the sponsoring company?
- Does the scheme have a governing board and what is its composition (any legal or other requirements regarding number of employer, member and / or retiree representatives, any other restrictions on who may or may not sit on the governing board)? What powers and responsibilities does the governing board have?
- What are the permitted funding instruments and which legal form may they take (e.g. pension fund, insurance contract, etc.)?
- Can the scheme be managed entirely, or partially, by an insurance company (e.g. insured scheme) on the basis of an insurance contract (e.g. through an individual and / or group policy)?
- Are there any other institutions involved in the collection or payment of contributions and / or benefits (other than any complaints resolution body such as an ombudsman and authorities covered in sections on protection of rights and regulatory and supervisory authorities respectively)?

Coverage

Voluntary

Include information about categories of employees covered by the plans described in the section on plan profile (e.g. all employees, all private-sector

Mandatory

Covered population

Include information about the population covered

Voluntary

employees, employees in one particular industry etc.).

Mention if other categories of employees (e.g. public sector) and / or self-employed persons are covered by specific complementary and private pension plans which are not included in the section on plan profile. (Public-sector plans may be mentioned here, but their specific characteristics are not covered further in later sections).

The regulation or practice concerning "discrimination" in coverage should also be noted (concerning at least 4 kinds of discrimination: sex, age, categories of workers and full-time / part-time employees). Any other conditions for affiliation (e.g. contract of certain length, minimum salary level etc.) should also be included.

Mandatory

by the schemes (e.g. private- and / or public-sector employees, self-employed persons etc.).

Enforcement of affiliation

Include information concerning measures that ensure that covered persons are affiliated to a scheme.

- What measures can the supervisory authority take to control coverage?
- Is there a scheme of last resort to which covered persons are affiliated by law if their employer does not affiliate them to a scheme or if they do not choose a scheme themselves? What is the time limit for employers and covered persons to choose to which scheme to affiliate?
- Do mandatory personal pension schemes have to accept any application for membership or may such applications be refused?
- How is the pension selling business controlled? Do pension sales companies have to obtain any license or registration and / or meet professional standards?

Financing / Investment

Sources of funds

Employee / Member contributions

- In the case of voluntary plans, do employees make contributions? Are there any legal minimum / maximum contribution rates or limits on the contributory salary? If applicable, quote typical rates or range if there are no legal requirements.
- In the case of mandatory schemes, what is the mandatory member contribution rate and are there lower and / or upper limits on the contributory salary? How is the contributory salary / income defined in the case of employees / self-employed members?

Employer contributions

- In the case of voluntary plans, are employers required to contribute? Are there any legal minimum / maximum contribution rates or limits on the contributory salary? If applicable, quote typical rates or range if there are no legal requirements. Are there any specific rules or methods for determining the rate at which the employer must contribute to defined benefit plans?

- In the case of mandatory schemes, what is the mandatory employer contribution rate and are there lower and / or upper limits on the contributory salary?

Other sources of funds

- Are there other sources of funds (e.g. state subsidies, rebates on social security contributions etc.)?
- Are there any contributions by the state on behalf of plan / scheme members to compensate for periods without contributions (e.g. child rearing, unemployment, military service etc.)?

Methods of financing

- What are the methods used to finance plans / schemes (e.g. full or partial funding, pay-as-you-go financing, the book reserve method etc.)?

Asset management

Include information on the types of institutions managing the plan / scheme assets and the restrictions applicable to investment decisions.

- What are the options for asset management (e.g. in-house, insurance company, banks, specialized asset manager, other institutional investors etc.)? Does the asset management have to be separate from the plan / scheme management?
- What legal conditions apply to asset managers (e.g. license, authorization, professional standards etc.)?
- Are there any legal or plan / scheme requirements for the investment of plan / scheme assets (e.g. "prudent person rule", restriction on self-investment in the sponsoring company or in plan / scheme or asset management companies, limits on amount held in equities, on foreign investment etc.)?
- What actor(s) can determine the composition of the portfolio (e.g. member, plan / scheme governing board, asset management company etc.)?
- Is there any legal minimum guaranteed return from the investment of plan / scheme assets?
- Are there any legal requirements for assets to be held by a custodian?

Benefit Provisions

Voluntary

Acquisition and maintenance of rights

Waiting period

- Is there any legal maximum / minimum period which employees must work before being affiliated to the plan? What is (if any) the typical waiting period in an average plan?
- Are there any legal maximum / minimum age conditions for participating in a plan (e.g. an employee cannot participate in the plan before

Mandatory

Preservation, portability, transferability

- Upon which occasions and, if a free choice may be made by the member, how often may members change the scheme of which they are a member?
- Is there any regulation concerning the preservation of scheme members' accrued rights in the case of defined benefit schemes and accumulated capital in the case of defined

Voluntary

age 20 and cannot contribute after age 65)? What are (if any) the typical age limits in an average plan?

Vesting rules

- Are there mandatory minimum vesting provisions (i.e. after how many years of membership do employer and employee contributions vest)? What are the typical vesting provisions if better than (or no) mandatory provisions?
- Are employees entitled to a refund of their own contributions (with or without interest) if they withdraw from the plan before satisfying vesting requirements? Are there any circumstances under which a part or all of the employer contributions are included in the refund?

Preservation, portability, transferability

- Is there any regulation concerning the preservation of plan members' accrued rights in the case of defined benefit plans and accumulated capital in the case of defined contribution plans if they leave the plan before normal retirement age? Do preserved rights have to be indexed (and if so, how)?
- Can an employee continue to contribute to the same plan while moving from one job to another? ("Portable" is used to refer to rights that an individual can «carry» with him / her while changing jobs.)
- Can pension rights be transferred from one plan to another (usually on changing jobs)? If so, are there any legal or other provisions to determine the transfer value?

Mandatory

contribution schemes if they leave the scheme before normal retirement age? Do preserved rights have to be indexed (and if so, how)?

- Can a member continue to contribute to the same scheme while moving from one job to another? ("Portable" is used to refer to rights that an individual can «carry» with him / her while changing jobs.)
- Can pension rights be transferred from one scheme to another? If so, are there any legal or other provisions to determine the transfer value?
- Are there any legal limits on fees that may be deducted from the transfer value upon transferring it to another scheme?

Retirement benefits

Benefit qualifying conditions

- Is there any legal minimum / maximum age requirement for benefits from plans / schemes to be paid?

- Is there any legal provision allowing or prohibiting early and / or deferred retirement? If there is no legal provision, do plans / schemes usually provide for early and / or deferred retirement?

Withdrawal of funds before retirement (Mandatory)

- Are there any legal provisions allowing benefits to be paid before the early or normal retirement age (e.g. for purchase of a house etc.) and for which reasons may this be done?
- Are there any legal requirements for the benefit to be paid back to the scheme before early / normal retirement?

Benefit structure / formula

- Are plans / schemes defined benefit or defined contribution?
- If defined benefit, are there any legal requirements or fiscal incentives governing the benefit formulae, e.g. accrual rates (fraction of salary that a plan / scheme member earns for each service year), the pensionable salary (e.g. average or final salary) including any floor and / or ceiling, and / or the length of pensionable service?
- What do plans / schemes provide for as benefits and what is the typical benefit formula if it is not legally prescribed?
- Are voluntary plans integrated with the social security scheme? If integrated, briefly state how they are integrated (e.g. a plan provides a certain level of benefits from which it deducts all or a part of the social security benefit, contributions and / or benefits of a plan change according to steps or ceilings fixed by the social security scheme etc.)?
- Are benefits paid as pensions, a lump sum or a combination of the two? Are there any legal minimum / maximum limits on the amount which may be taken as a lump sum?
- Does the plan / scheme member have to buy an annuity? Are there any legal requirements for unisex mortality tables to be used? Are there any legal age or other restrictions concerning the annuity which must be purchased?
- Are there any actuarial reductions or increments in the case of early or deferred retirement?

Benefit adjustment

- Are there any maximum / minimum legal requirements for indexation of benefits in payment (amount and frequency)?
- In the case of absence of legal requirements, who decides on benefit adjustments (e.g. the institution managing the benefit administration, member and employer representatives etc. on a discretionary or regular basis) and how are benefits typically adjusted?

Survivor

Voluntary

- Are there any legal requirements for survivor benefits to be provided? Are there any legal rules concerning benefit eligibility conditions (e.g. age and / or other conditions for both the plan member and the survivors) and benefits?

Mandatory

Benefit qualifying conditions

- Mention if survivor benefits are not legally required.
- Who is eligible to receive survivor benefits

Voluntary

If none, what benefits do plans usually provide?

- Mention if survivor benefits are provided under arrangements that are separate from the pension plan (e.g. separate insurance).

Mandatory

(spouse, orphans, other dependents)?

- Are there any legal age and / or other eligibility conditions (of both the scheme member and the survivors) to receive benefits and under what conditions do benefits cease being paid (e.g. remarriage, end of university education etc.)?

Benefit structure

- What are the legal requirements for the calculation and the amount of survivor benefits?
- What are the benefits payable to different eligible survivors?
- Are there any differences between the benefits payable to widows and those payable to widowers?
- Are benefits paid as pensions, a lump sum or a combination of the two? Are there any legal minimum / maximum limits on the amount which may be taken as a lump sum?

Disability

Voluntary

- Are there any legal requirements for disability benefits to be provided? Are there any legal rules concerning benefit qualifying conditions (e.g. certain degree of disability) and benefits (e.g. integration with the social security scheme)? If none, what benefits do plans usually provide?
- Mention if disability benefits are provided under arrangements that are separate from the pension plan (e.g. separate insurance).

Mandatory

Benefit qualifying conditions

- Mention if disability benefits are not legally required.
- What is the degree of disability required to receive a full or partial disability benefit?
- Are there any legal age and / or other conditions to receive benefits and under which circumstances do benefits cease being paid (e.g. reconvalescence, retirement age etc.)?

Benefit structure

- What are the legally required benefits in the case of partial or full disability? Is the benefit calculation based on projected service and if yes, until which age is service projected?
- Are there are any legal requirements for

Mandatory

benefits to be increased if the beneficiary has dependents?

- Are benefits paid as pensions, a lump sum or a combination of the two? Are there any legal minimum / maximum limits on the amount which may be taken as a lump sum?

Protection of Rights

Include information about provisions made and measures taken by the regulatory or supervisory authorities or by the plan / scheme rules for the protection of plan / scheme members or beneficiaries against:

- Insolvency of the employer in the case of occupational plans / schemes;
- Insolvency of the pension fund (if applicable);
- Insolvency of the plan / scheme managing company;
- Fraud or mismanagement;
- Other contingencies affecting the safeguard of entitlements (e.g. mergers and acquisitions).

Protection of Assets

- Are there any legal requirements which prescribe the separation of plan / scheme assets from those of the plan / scheme manager and the employer in the case of occupational plans / schemes?
- Are there any legal requirements for assets to be held by a custodian separate from the plan / scheme manager?

Financial and Technical Requirements / Reporting

- Are there any legal requirements which dictate actuarial funding standards and which require a plan / scheme to cause an actuary to periodically examine the plan / scheme?
- Are there any legal requirements concerning periodical financial statements to be prepared and audited?
- Are there any legal requirements concerning reports (e.g. actuarial certificates, audited accounts, investment report etc.) that must periodically be submitted to the supervisory authority?
- Are there any legal requirements for the supervisory authority to take certain specified actions in the case of underfunding?

Whistleblowing

- Are there any legal requirements for service providers or controllers (e.g. auditor, actuary, custodian etc.) of a pension plan / scheme to inform the supervisory authority if they believe that the plan / scheme is not being managed in compliance with legal requirements or that the sponsoring company in the case of occupational plans / schemes is not meeting its obligations?

Standards for service providers

- Are there any legal requirements concerning who may be a custodian and are there any licensing requirements for custodians?
- Are there any legal requirements for actuaries or auditors to meet professional and / or other standards?

Fees

- Are there any legal limits on fees that may be charged by plan / scheme managers and / or other service providers (e.g. asset manager, custodian etc.) for their services? Are there any legal requirements for the supervisory authority to approve these fees?

Winding up / Merger and acquisition

- Are there any legal requirements governing the conditions under which a plan / scheme may be wound up?
- Are there any legal requirements for the winding-up procedure and for allocating assets when a plan / scheme is wound up?
- Are there any legal requirements for mergers and acquisitions of pension plans / schemes, plan / scheme managers and / or sponsoring companies in the case of occupational plans / schemes?

Bankruptcy: Insolvency insurance / Compensation Fund

- Are there any legal requirements for the sponsoring company, plan / scheme managers or other service providers to buy insurance against low performance or insolvency of the plan / scheme?
- Are there any legal requirements for a compensation fund to be established which takes over some liabilities to members and beneficiaries when the plan / scheme assets are insufficient?
- How is the compensation fund financed? What contributions, if any, do plans / schemes make to finance the compensation fund?

Disclosure of information / Individual action

- Are there any legal requirements for sponsoring companies or plan / scheme managers to periodically disclose information (e.g. benefit statement, financial statements, fees etc.) to members and beneficiaries?
- Are there any legal provisions for resolving complaints or disputes between members or beneficiaries and the plan / scheme management (e.g. an ombudsman)?
- Are there any possibilities for members to bring civil or criminal action against plan / scheme managers and other service providers who fail in their duties?

Other measures

- Are there any other significant measures (legal or financial) in force to protect the rights of members and beneficiaries?

Tax Treatment

Include information about the tax treatment of complementary and private pension plans / schemes at different stages.

As appropriate for each of the following four items, note the tax treatment applied vis-à-vis the different types of tax (income tax, corporation tax, etc.). Include additional information on any ceiling or floor for tax and any anomalies or exceptions (e.g. contributions paid by an employer may be tax-exempt but the employee may be liable to income tax on the amount of employer contributions as benefit in kind).

Taxation of employee / member contributions

Taxation of employer contributions

Taxation of investment income

Taxation of benefits

Regulatory and Supervisory Authorities

Include details of organizations which fulfil regulatory, supervisory, monitoring or controlling functions for noninsured and insured complementary and private pension plans / schemes.

- What are the powers of the supervisory authority to control and inspect plans / schemes and plan / scheme managers?
- Can the supervisory authority impose sanctions for lack of compliance? Does it have the power to disqualify service providers, plan / scheme managers or members of the governing board of a pension plan / scheme?
- Is there an advisory committee to the supervisory authority representing different groups involved in complementary and private pensions (e.g. auditors, actuaries, plan / scheme managers etc.)?
- Is the supervision integrated or nonintegrated (i.e. is the banking, securities and insurance supervision integrated in the same supervisory authority)?
- Is the supervisory authority financially independent from the state (i.e. not financed out of the state budget but through contributions from supervised entities?

State the name of the organization and the aspects covered (e.g. supervises the operation of complementary and private pension plans / schemes, responsible for regulating financial institutions etc.). Where the information is publicly available, include the address and contact details such as telephone, fax and website.

Table 1. Types of systems for retirement income

Africa - Information valid at 01-01-2005

Country or Territory	Contributory		Non contributory			Complementary and Private Pensions			
	Flat-rate	Earnings-related	Means-tested	Flat-rate universal	Provident fund	Mandatory occupational schemes	Mandatory personal schemes	Voluntary occupational plans	Voluntary personal plans
Botswana				x				x	
Kenya[h]					x			x	x
South Africa			x					x	x
Tunisia		x						x	
Zambia		x						x	
Zimbabwe		x						x	

Americas - Information valid at 01-07-2005

Country or Territory	Contributory		Non contributory			Complementary and Private Pensions			
	Flat-rate	Earnings-related	Means-tested	Flat-rate universal	Provident fund	Mandatory occupational schemes	Mandatory personal schemes	Voluntary occupational plans	Voluntary personal plans
Argentina		x	x				x[a]	xf	x
Bermuda	x		x			x[a]			x
Bolivia				x			x[a]		
Brazil		x	x					x	x
Canada		x	x	x				x	x
Chile		x[b]	x				x[a]		x
Colombia		x					x[a]		
Costa Rica		x	x				x[a]		x
Dominican Republic		x[b]	x[c]				x[a]		
El Salvador		x[b]					x[a]		x
Mexico		x[b]					x[a]		x
Peru		x					x[a]		x
United States		x	x					x	x
Uruguay		x	x				x[a]		x

(Continued)

Table 1. Types of systems for retirement income (cont'd)

Europe - Information valid at 01-01-2006

Country or Territory	Contributory		Non contributory		Provident fund	Complementary and Private Pensions			
	Flat-rate	Earnings-related	Means-tested	Flat-rate universal		Mandatory occupational schemes	Mandatory personal schemes	Voluntary occupational plans	Voluntary personal plans
Austria		x	x					x	x
Belgium		x	x					x	x
Bulgaria		x	x				x[a]		
Croatia		x					x[a]		x
Denmark			x	x			x[a,f]	x	x
Estonia	x[d]	x[d]					x[a]		x
Finland		x	x			x[a]			x
France		x	x			x		x[f]	x
Germany		x						x	x
Hungary		x					x[a]		x
Iceland			x			x[a]			x
Ireland	x		x					x	x
Italy[h]		x	x					x	x
Liechtenstein		x				x[a]			x
Luxembourg	x[d]	x[d]						x	x
Macedonia	n.a.	n.a.	n.a.	n.a.	n.a.		x		
Moldova		x	x					x	x
Netherlands	x		x					x	x
Norway	x	x				x			x
Poland	x[e]	x[e]					x[a]	x[f]	x
Portugal		x	x					x	x
Romania		x					x		
Slovak Republic		x					x[a,f]	x	x
Slovenia		x	x					x	
Spain		x						x	x
Sweden		x	x				x[a,f]	x	x
Switzerland	x[d]	x[d]	x			x[a]			x
United Kingdom[h]	x	x	x					x	x

(Continued)

Table 1. Types of systems for retirement income (cont'd)

Asia & Pacific - Information valid at 01-07-2006

Country or Territory	Contributory		Non contributory			Complementary and Private Pensions			
	Flat-rate	Earnings-related	Means-tested	Flat-rate universal	Provident fund	Mandatory occupational schemes	Mandatory personal schemes	Voluntary occupational plans	Voluntary personal plans
Australia			x			x[a]			x
Bangladesh			g					x	
Hong Kong, China			x			x[a]		x	x
Indonesia					x			x	x
Israel	x		x					x	x
Japan	x	x						x	x
Kazakhstan		x[b]	x				x[a]		
Malaysia					x			x	
New Zealand			x	x				x	x
Thailand		x						x	x

Sources: Social Security Programs Throughout the World (SSPTW), various volumes; Information in the country or territory profiles in this volume.

NOTE: n.a. = not available.

The types of systems for retirement income are defined as follows:

Publicly managed programs (covered in SSPTW)

Flat-rate pension: A pension of uniform amount or based on years of service or residence but independent of earnings. It is financed by payroll tax contributions from employees, employers or both.

Earnings-related pension: A pension based on earnings. It is financed by payroll tax contributions from employees, employers, or both.

Means-tested pension: A pension paid to eligible persons whose own or family income, assets, or both fall below designated levels. It is generally financed through government contributions, with no contributions from employers or employees.

Flat-rate universal pensions: A pension of uniform amount normally based on residence but independent of earnings. It is generally financed through government contributions, with no contributions from employers or employees.

Provident funds: Employee and employer contributions are set aside for each employee in publicly managed special funds. Benefits are generally paid as a lump sum with accrued interest.

(Social Security Programs Throughout the World (SSPTW), the result of the cooperative efforts of the ISSA and the US Social Security Administration, includes concise outlines of social security systems in over 170 countries or territories.)

(Continued)

Table 1. Types of systems for retirement income (cont'd)

Complementary and Private Pension schemes (covered in CPPTW 2008)

Mandatory occupational scheme: A scheme the membership of which is linked to an employment relationship between the plan member and the plan sponsor and in which at least one employer is required by law to participate as plan sponsor.

Mandatory personal scheme: A scheme the membership of which need not be linked to any employment relationship and in which covered individuals must become members by law.

Voluntary occupational plan: A plan sponsored by a single, or a group of, employers on a voluntary basis and of which membership is linked to an employment relationship between the plan member and the plan sponsor.

Voluntary personal plan: A plan the membership of which need not be linked to any employment relationship but is based on the personal decision of the individual.

Footnotes

a. Some information provided in SSPTW.

b. Old system that is closed to new members, under which no benefits are accrued anymore and/or that is phased out.

c. The means-tested pension has not been implemented.

d. The benefit formula contains a flat-rate component as well as an earnings-related element.

e. The old publicly managed system contains a flat-rate component as well as an earnings-related element. The new publicly managed system consists of an earnings-related notional defined contribution scheme.

f. Not covered in Complementary and Private Pensions throughout the World 2008.

g. No mandatory system for retirement income or only limited social assistance.

h. Information valid at 01-01-2003

Table 2. Methods of implementing voluntary complementary and private pension plans

Africa - Information valid at 01-01-2005

Country or Territory	Pension funds		Insurance[a]	Trust	Book reserve	Support funds	Public entity
	Legal entity	No legal entity					
Botswana	x						
Kenya[f]				x			
South Africa	x[b]						
Tunisia							x
Zambia				x			
Zimbabwe	x[b]						

Americas - Information valid at 01-07-2005

Country or Territory	Pension funds		Insurance[a]	Trust	Book reserve	Support funds	Public entity
	Legal entity	No legal entity					
Brazil	x		x				
Canada			x	x			
United States			x	x			

Europe - Information valid at 01-01-2006

Country or Territory	Pension funds		Insurance[a]	Trust	Book reserve	Support funds	Public entity
	Legal entity	No legal entity					
Austria	x		x		x	x	
Belgium	x		x				
Denmark	x		x				
Germany	x		x		x	x	
Ireland				x			
Italy[f]	x[c]	x[c]					
Luxembourg	x		x		x		
Moldova	x						
Netherlands	x		x				
Portugal		x	x				
Slovak Republic			x				
Slovenia		x					
Spain		x	x		x[d]		
Sweden	x		x		x		
United Kingdom[f]				x			

(Continued)

Table 2. Methods of implementing voluntary complementary and private pension plans (Cont'd)

Asia & Pacific - Information valid at 01-07-2006

Country or Territory	Pension funds		Insurance[a]	Trust	Book reserve	Support funds	Public entity
	Legal entity	No legal entity					
Bangladesh				x			
Hong Kong, China			x	x			
Indonesia	x						
Israel		x[b]	x				
Japan	x		x	x			
Malaysia			x	x	x		
New Zealand				x			
Thailand	x[e]						

Source: Based on information in the country or territory profiles in this volume.

Footnotes

a. Plans are directly implemented through an insurance contract.

b. Both pension and provident funds exist.

c. Closed pension funds are independent legal entities whereas open pension funds are not.

d. Book reserve method restricted to banks, insurance companies and other financial intermediaries during a transitional period for members who joined a plan before December 1999.

e. Provident funds.

f. Information valid at 01-01-2003.

Table 3. Legal rules for voluntary complementary and private pension plans

Africa - Information valid at 01-01-2005

Country or Territory	Maximum waiting period	Maximum vesting period for employer contributions	Minimum pensionable age[o]	Benefit adjustment	Tax treatment			
					EET	ETE	TEE	Other
Botswana	-	-	-	-	x			
Kenya[n]	1 year	5 years	-	-	x			
South Africa	-	-	50-70[a]	-				x
Tunisia	0	-	60	Yes	x[b]			
Zambia	-	0	55	-		x		
Zimbabwe	3 months	15 years[c]	55-70[a]	-	x[d]			

Americas - Information valid at 01-07-2005

Country or Territory	Maximum waiting period	Maximum vesting period for employer contributions	Minimum pensionable age[o]	Benefit adjustment	Tax treatment			
					EET	ETE	TEE	Other
Brazil	-	-	-	Yes				x
Canada	2 years[e]	2 years[e]	65[e,f]	-	x			
United States	2 years	d	-	-	x[d]			

Europe - Information valid at 01-01-2006

Country or Territory	Maximum waiting period	Maximum vesting period for employer contributions	Minimum pensionable age[o]	Benefit adjustment	Tax treatment			
					EET	ETE	TEE	Other
Austria	-	d	-	-				x[d]
Belgium	0	1 year	-	-	x			
Denmark	-	5 years	60	-				x
Germany	-	5 years	-	Yes[d]				x
Ireland	-	2 years	50	Yes	x			
Italy[n]	-	0	g	-				x
Luxembourg	-	10 years[h]	-	-				x
Moldova	-	-	49-62[g]	-	i	i	i	i
Netherlands	-	0	55-70[a]	-	x			
Portugal	-	-	g	-				x
Slovak Republic	0	0	55	-	x			
Slovenia	1 year	0	53	-	x			
Spain	2 years	0	g	-	x			

(Continued)

Table 3. Legal rules for voluntary complementary and private pension plans (Cont'd)

Country or Territory	Maximum waiting period	Maximum vesting period for employer contributions	Minimum pensionable age[o]	Benefit adjustment	Tax treatment			
					EET	ETE	TEE	Other
Sweden	0	0	65	Yes[d]				x
United Kingdom[n]	2 years	2 years	50[j]	Yes	x			

Asia & Pacific - Information valid at 01-07-2006

Country or Territory	Maximum waiting period	Maximum vesting period for employer contributions	Minimum pensionable age[o]	Benefit adjustment	Tax treatment			
					EET	ETE	TEE	Other
Bangladesh	-	-	-	-	x[k]			
Hong Kong, China	-	-	45	-				x
Indonesia	1 year[l]	3 years	55-60[a]	-	x[m]			
Israel	-	-	60	-				x
Japan	f	f	f	f				x
Malaysia	-	-	50	-				x[f]
New Zealand	-	-	65	-				x
Thailand	-	-	55[j]	-				x

Source: Based on information in the country or territory profiles in this volume.

NOTE: - = no legal rules.

Footnotes

a. Depends on plan rules within this range.

b. No investment income as financed on a pay-as-you-go basis.

c. Gradual vesting scale and vesting must start after 5 years.

d. Depends on type of plan.

e. Different rule may apply in some provinces.

f. Upper limit.

g. Depends on the member's benefit eligibility age under the social security scheme.

h. Period refers to years of service, not plan membership.

i. Tax structure not yet regulated.

j. Lower limit for tax purposes only.

k. Taxation of benefits depends on length of plan membership.

l. Lower limit.

m. Income from the investment of certain assets taxed.

n. Information valid at 01-01-2003.

o. Considering early retirement.

Table 4. Legal rules for mandatory complementary and private pension schemes

Americas - Information valid at 01-07-2005

Country or Territory	Minimum rate of return	Mandatory contribution rates		Minimum pensionable age[p]		Benefit structure possible		Benefit adjustment	Tax treatment			
		Employee	Employer	Men	Women	DB	DC		EET	ETE	TEE	Other
Argentina	Yes	7%[a]	0%	65[b]	60[b]		x	Yes	x			
Bermuda	-	5%	5%	c	c	x	x	-	x			
Bolivia	-	10%[a]	0%[a]	65[b]	65[b]		x	Yes		x		
Chile	Yes	10%[a]	0%[d]	65[b]	60[b]		x	Yes[g]	x			
Colombia	Yes	2.625%[a]	7.875%[a]	62[b]	57[b]		x	Yes				x
Costa Rica	-	1%	3.25%	61 and 11 months	59 and 11 months		x	-				x
Dominican Republic	Yes	2.28%[a]	5.32%[a]	55[e]	55[e]		x	Yes				x
El Salvador	Yes	3.25%[a]	6.75%[a]	60[b]	55[b]		x	Yes[g]	x			
Mexico	Yesm	1.125%[a]	5.15%[a,f]	65[e]	65[e]		x	Yes[g]				x
Peru	Yes	8%[a]	0%	65[b]	65[b]		x	Yes[g]			x	
Uruguay	Yes	15%[a]	0%[h]	60	60		x	Yes	x			

Europe - Information valid at 01-01-2006

Country or Territory	Minimum rate of return	Mandatory contribution rates		Minimum pensionable age[p]		Benefit structure possible		Benefit adjustment	Tax treatment			
		Employee	Employer	Men	Women	DB	DC		EET	ETE	TEE	Other
Bulgaria	Yes	1.4%	2.6%	63[b]	58 and 6 months[b]		x	-				x
Croatia	Yes	5%	0%	59	54		x	Yes	x			
Estonia	-	2%	4%	63	59 and 6 months		x	-				x
Finland	Yes	i	i	58	58	x		Yes				x
France	-	j	j	60	60		x	Yes	x[k]			
Hungary	Yes	7%	0%	62	60		x	Yes				x
Iceland	-	4%	6%	60	60	x		Yes	x			
Liechtenstein	-	n	n	60	60	x	x	-	x			
Macedonia	-	0%	7.42%	64	61 and 6 months		x	-	l	l	l	l
Norway	-	0%	2%	67	67	x	x	Yes	x			
Poland	Yes	7.3%	0%	65	60		x	Yes	x			

(Continued)

Table 4. Legal rules for mandatory complementary and private pension schemes (Cont'd)

Country or Territory	Minimum rate of return	Mandatory contribution rates		Minimum pensionable age[p]		Benefit structure possible		Benefit adjustment	Tax treatment			
		Employee	Employer	Men	Women	DB	DC		EET	ETE	TEE	Other
Romania	Yes	2%	0%	63	57 and 9 months		x	Yes	x			
Switzerland	Yes	n	n	58	58	x	x	-	x			

Asia & Pacific - Information valid at 01-07-2006

Country or Territory	Minimum rate of return	Mandatory contribution rates		Minimum pensionable age[p]		Benefit structure possible		Benefit adjustment	Tax treatment			
		Employee	Employer	Men	Women	DB	DC		EET	ETE	TEE	Other
Australia	-	0%	9%	55	55	x	x	-				x
Hong Kong, China	-	5%	5%	60	60		x	o				x
Kazakhstan	Yes	10%	0%	63[b]	58[b]		x	Yes	x			

Source: Based on information in the country or territory profiles in this volume.

Note: - = no legal rules

DB = defined benefit

DC = defined contribution

Footnotes

a. Disability and survivor insurance contributions and administrative fees not included.

b. Early retirement is possible when a certain benefit level can be attained.

c. No legal rules except that the scheme rules must at the latest provide for benefit eligibility at age 66.

d. Employers only contribute 1% or 2% of salary for employees working under arduous conditions.

e. Retirement possible when a certain benefit level can be attained.

f. The government pays 0.225% of salary to the individual account plus a flat-rate amount (the so-called social quota) of MXN 2.95 for each day of work.

g. Different types of benefits exist and benefit adjustment is only required for some.

h. Employers contribute on the the annual salary between UYU<N>12,951 and UYU<N>38,854 for employees working in certain occupations.

i. Contribution rates differ between different schemes; employers and employees' contribution rates depends on age and/or size of workforce.

j. Contribution rate depends on type of scheme and salary level.

k. No investment income as financed on a pay-as-you-go basis.

l. The tax treatment has not yet been regulated.

m. SIEFOREs must comply with a maximum VAR (Value at Risk).

n. Employers are required to pay at least one-half of the total contribution but they can pay a higher share.

o. Not applicable, as benefit paid as lump sum.

p. Considering early retirement.

Table 5. Demographic statistics related to complementary and private pensions, 2005

Africa

Country or Territory	Total population (millions)	Statutory pensionable age[a]		Life expectancy at birth[b]		Population aged 65 or older[c]	Old-age Dependency ratio[d]	Projected old-age dependency ratio 2050	Total fertility rate[e]
		Men	Women	Men	Women				
Botswana	1.8	65	65	50.5	50.7	3.4	6	11	2.90
Kenya	35.6	55	55	53	55.2	2.7	6	10	4.96
South Africa	47.9	65	60	48.8	49.7	4.2	7	14	2.64
Tunisia	10.1	60	60	71.9	76	6.3	9	33	1.93
Zambia	11.5	55	55	42.1	42.5	2.9	6	6	5.18
Zimbabwe	13.1	60	60	44.1	42.7	3.5	6	11	3.19

Americas

Country or Territory	Total population (millions)	Statutory pensionable age[a]		Life expectancy at birth[b]		Population aged 65 or older[c]	Old-age Dependency ratio[d]	Projected old-age dependency ratio 2050	Total fertility rate[e]
		Men	Women	Men	Women				
Argentina	38.7	65	60	71.6	79.1	10.2	16	30	2.25
Bermuda	0.064	65	65	75.7	79.9	11.9	17	..	1.89
Bolivia	9.1	65	65	63.4	67.7	4.5	8	19	3.50
Brazil	186.8	65[f]	60[f]	68.8	76.1	6.1	9	31	2.25
Canada	32.3	65	65	78.3	82.9	13.1	19	44	1.53
Chile	16.3	65	60	75.5	81.5	8.1	12	36	1.94
Colombia	44.6	60	55	69.2	76.6	5.1	8	29	2.22
Costa Rica	4.3	61	59	68.9	74	5.8	9	32	2.10
Dominican Republic	9.5	60	60	69.3	75.5	5.6	9	24	2.81
El Salvador	6.7	60	55	68.8	74.9	5.5	9	25	2.68
Mexico	104.3	65	65	73.7	78.6	5.8	9	34	2.21
Peru	27.3	65	65	68.7	73.9	5.6	9	25	2.51
United States	299.8	65.5	65.5	75.6	80.8	12.3	18	34	2.05
Uruguay	3.3	60	60	72.8	79.9	13.5	22	35	2.12

Asia & Pacific

Country or Territory	Total population (millions)	Statutory pensionable age[a]		Life expectancy at birth[b]		Population aged 65 or older[c]	Old-age Dependency ratio[d]	Projected old-age dependency ratio 2050	Total fertility rate[e]
		Men	Women	Men	Women				
Australia	20.3	65	63	78.9	83.6	13.1	19	41	1.79

(Continued)

Table 5. Demographic statistics related to complementary and private pensions, 2005 (Cont'd)

Country or Territory	Total population (millions)	Statutory pensionable age[a]		Life expectancy at birth[b]		Population aged 65 or older[c]	Old-age Dependency ratio[d]	Projected old-age dependency ratio 2050	Total fertility rate[e]
		Men	Women	Men	Women				
Bangladesh	153.3	62	62	63.2	65	3.5	6	17	2.83
Hong Kong, China	7.0	65	65	79.4	85.1	12	16	58	0.97
Indonesia	226.1	55	55	68.7	72.7	5.5	8	29	2.18
Israel	6.7	66	61	78.6	82.8	10.1	16	31	2.75
Japan	127.9	65	65	79	86.1	19.7	30	74	1.27
Kazakhstan	15.2	63	58	61.6	72.4	8	12	27	2.31
Malaysia	25.7	55	55	72	76.7	4.4	7	25	2.60
New Zealand	4.1	65	65	78.2	82.2	12.2	18	40	1.99
Thailand	63.0	55	55	66.5	75	7.8	11	38	1.85

Europe

Country or Territory	Total population (millions)	Statutory pensionable age[a]		Life expectancy at birth[b]		Population aged 65 or older[c]	Old-age Dependency ratio[d]	Projected old-age dependency ratio 2050	Total fertility rate[e]
		Men	Women	Men	Women				
Austria	8.3	65	60	76.9	82.6	16.2	24	51	1.42
Belgium	10.4	65	64	76.5	82.3	17.3	26	47	1.65
Bulgaria	7.7	63	58.5	69.5	76.7	17.2	25	57	1.31
Croatia	4.5	64	59	72.3	79.2	17.2	26	50	1.35
Denmark	5.4	65	65	76	80.6	15.1	23	40	1.80
Estonia	1.3	63	59.5	65.9	76.8	16.6	24	42	1.49
Finland	5.2	65	65	76.1	82.4	15.9	24	44	1.83
France	61.0	60	60	77.1	84.1	16.3	25	45	1.89
Germany	82.6	65	65	76.5	82.1	18.8	28	54	1.36
Hungary	10.0	62	60	69.2	77.4	15.2	22	47	1.28
Iceland	0.3	67	67	80.2	83.3	11.7	18	43	2.05
Ireland	4.1	65	65	76.5	81.4	11.1	16	39	1.96
Italy	58.6	65	60	77.5	83.5	19.7	30	60	1.38
Liechtenstein	0.04	64	63	76.1	83.2	12.0	17	..	1.51
Luxembourg	0.5	65	65	75.7	81.6	14.2	21	31	1.66
Macedonia	2.0	64	61.5	71.8	76.6	11.1	16	45	1.43
Moldova	3.9	62	57	65.1	72.5	11.1	16	35	1.40
Netherlands	16.3	65	65	77.5	81.9	14.2	21	43	1.72

(Continued)

Table 5. Demographic statistics related to complementary and private pensions, 2005 (Cont'd)

Country or Territory	Total population (millions)	Statutory pensionable age[a]		Life expectancy at birth[b]		Population aged 65 or older[c]	Old-age Dependency ratio[d]	Projected old-age dependency ratio 2050	Total fertility rate[e]
		Men	Women	Men	Women				
Norway	4.6	67	67	77.8	82.5	14.7	32	40	1.85
Poland	38.2	65	60	71.3	79.8	13.3	19	55	1.23
Portugal	10.5	65	65	75	81.2	16.9	25	56	1.46
Romania	21.6	63	57.75	69	76.1	14.8	21	53	1.30
Slovak Republic	5.4	62	62	70.7	78.5	11.7	16	51	1.25
Slovenia	2.0	61.5	55.3	74.1	81.5	15.6	22	61	1.28
Spain	43.4	65	65	77.7	84.2	16.8	24	63	1.41
Sweden	9.0	65	65	78.7	83	17.2	26	41	1.80
Switzerland	7.4	65	64	79	84.2	15.4	23	42	1.42
United Kingdom	60.2	65	60	77.2	81.6	16.1	24	40	1.82

Sources: Population Division, Department of Economic and Social Affairs, UN Secretariat, World Population Prospects: The 2006 Revision, World Urbanization Prospects: The 2005 Revision (http://esa.un.org/unpp)
Social Security Programs Throughout the World, various volumes (www.issa.int/ssw)
U.S. Central Intelligence Agency. The World Factbook, 2005 (Washington D.C.: CIA 2005).

NOTE: .. = no information available

Footnotes

a. Eligibility age for benefits under the publicly managed social security scheme (or the mandatory complementary and private pension scheme if no publicly managed scheme).

b. Medium variant 2005-2010.

c. Percentage of the population aged 65 or over with respect to the total population.

d. Ratio of the population aged 65 or over to the population aged 15 - 64; expressed as a number of dependants per 100 persons of working age (15-64).

e. The average number of children a hypothetical cohort of women would have at the end of their reproductive period if they were subject, during their whole lives, to the fertility rates of a given period and if they were not subject to mortality; expressed as children per woman.

f. Urban workers.

Table 6. Financial statistics related to complementary and private pensions, 2005

Africa

Country or Territory	GDP per capita[a]	Consumer Price Index[b]	Gross national savings[c]	Market capitalization[d]	Listed domestic companies[e]	Turnover ratio[f]	Deposit interest rate[g]
Botswana	10,812	8.6	54.8	23.3	18	1.8	9.25
Kenya	1,104	10.3	11.9	33.3	47	9.8	5.08
South Africa	9,952	3.4	14.2	233.6	388	39.3	6.04
Tunisia	7,451	2.0	21.9	10.0	46	16.5	..
Zambia	910	18.3	10.9	13.6	12	2.0	11.19
Zimbabwe	1,837	..	-0.4	70.3	79	15.3	91.08

Americas

Country or Territory	GDP per capita[a]	Consumer Price Index[b]	Gross national savings[c]	Market capitalization[d]	Listed domestic companies[e]	Turnover ratio[f]	Deposit interest rate[g]
Argentina	12,709	9.6	24.9	33.6	101	30.4	3.76
Bermuda	..	..	..	..	22	3.7	..
Bolivia	2,509	5.4	21.3	23.3	36	0.1	4.93
Brazil	7,639	6.9	16.5	53.8	381	38.3	17.63
Canada	29,688	2.2	..	133.0	3,721	63.6	0.79
Chile	10,622	3.1	20.4	114.7	245	14.9	3.93
Colombia	6,536	5.0	19.0	37.4	114	17.9	7.01
Costa Rica	9,067	13.8	18.3	7.4	19	7.7	10.14
Dominican Republic	6,987	4.2	20.5	..	..	..	13.86
El Salvador	4,675	4.7	11.2	21.3	35	2.3	..
Mexico	9,618	4.0	21.6	31.1	151	25.7	3.46
Peru	5,375	1.6	19.9	45.4	196	7.2	2.59
United States	37,267	3.4	..	136.9	5,143	129.1	..
Uruguay	9,269	4.7	13.4	2.1	11	..	2.84

Europe

Country or Territory	GDP per capita[a]	Consumer Price Index[b]	Gross national savings[c]	Market capitalization[d]	Listed domestic companies[e]	Turnover ratio[f]	Deposit interest rate[g]
Austria	29,836	2.3	24.6	41.3	92	43.3	..
Belgium	29,093	2.8	23.4	88.2	145	20.8	..
Bulgaria	8,208	5.0	16.3	18.7	331	35.2	3.08
Croatia	11,614	3.3	23.7	33.2	145	6.7	1.71
Denmark	30,519	1.8	23.7	68.8	168	92.3	..

(Continued)

Table 6. Financial statistics related to complementary and private pensions, 2005 (Cont'd)

Country or Territory	GDP per capita[a]	Consumer Price Index[b]	Gross national savings[c]	Market capitalization[d]	Listed domestic companies[e]	Turnover ratio[f]	Deposit interest rate[g]
Estonia	14,206	4.1	26.1	25.4	15	51.1	2.13
Finland	28,884	0.9	22.6	108.5	134	139.1	..
France	28,387	1.8	18.0	80.4	664	82.7	2.15
Germany	26,672	2.0	21.1	43.7	648	146.0	..
Hungary	16,241	3.6	17.1	29.5	44	78.0	5.17
Iceland	33,003	4.2	12.5	175.8	24	75.9	..
Ireland	34,601	2.4	..	56.6	53	56.7	0.01
Italy	25,986	2.0	19.9	45.3	275	140.5	..
Liechtenstein	..	..	..	..	..	..	..
Luxembourg	57,016	2.5	..	140.5	39	0.5	..
Macedonia	6,396	0.0	20.3	11.2	57	18.3	6.63
Moldova	2,045	13.1	21.9	..	..	5.9	13.21
Netherlands	30,520	1.7	26.5	116.6	170	112.2	2.34
Norway	36,767	1.5	37.1	64.6	202	117.2	1.83
Poland	12,604	2.1	18.2	31.0	248	36.3	2.79
Portugal	18,794	2.3	13.1	36.5	52	55.4	..
Romania	8,064	9.0	12.1	20.8	3,747	21.0	..
Slovak Republic	14,226	2.7	16.5	9.3	209	1.6	2.44
Slovenia	19,823	2.5	25.2	23.0	116	9.0	3.18
Spain	23,836	3.4	22.6	85.4	3,300	163.9	..
Sweden	29,182	0.5	23.1	112.9	252	118.9	0.79
Switzerland	31,932	1.2	..	255.7	263	100.1	0.52
United Kingdom	29,479	2.8	13.9	138.9	2,759	141.9	..

Asia & Pacific

Country or Territory	GDP per capita[a]	Consumer Price Index[b]	Gross national savings[c]	Market capitalization[d]	Listed domestic companies[e]	Turnover ratio[f]	Deposit interest rate[g]
Australia	30,242	2.7	..	109.7	1,643	78.0	3.70
Bangladesh	1,828	7.0	28.8	5.1	262	31.5	8.09
Hong Kong, China	31,069	0.9	31.9	566.0	1,126	49.3	1.26
Indonesia	3,423	10.5	24.8	28.4	335	54.2	8.08
Israel	23,020	1.3	..	97.3	572	55.5	3.24
Japan	27,345	-0.3	..	104.5	3,279	118.8	0.27
Kazakhstan	6,992	7.6	28.5	18.4	83	14.9	..

(Continued)

Table 6. Financial statistics related to complementary and private pensions, 2005 (Cont'd)

Country or Territory	GDP per capita[a]	Consumer Price Index[b]	Gross national savings[c]	Market capitalization[d]	Listed domestic companies[e]	Turnover ratio[f]	Deposit interest rate[g]
Malaysia	9,685	3.0	37.6	138.6	1,020	26.9	3.00
New Zealand	22,870	3.0	..	37.2	154	41.3	6.68
Thailand	7,740	4.5	29.9	70.1	468	74.7	1.88

Source: World Development Indicators. The World Bank. www.worldbank.org/data

NOTE: .. = no information available

Footnotes

a. Gross Domestic Product per capita based on purchasing power parity (PPP) in current international dollars.

b. Annual percentage change.

c. Gross National Income less total consumption, plus net transfers; as a percentage of Gross National Income.

d. Share price times the number of shares outstanding at the end of the year as a percentage of GDP.

e. Domestically incorporated companies listed on the country's stock exchanges at the end of the year. This indicator does not include investment companies, mutual funds or other collective investment vehicles.

f. Total value of shares traded during the period divided by the average market capitalization for the period.

g. Rate paid by commercial or similar banks for demand, time or savings deposits.

AFRICA - Voluntary

Information valid at 01-01-2005

Botswana

Exchange rate: USD 1.00
equals 4.35 pula (BWP).

Regulatory Framework

1995: Income Tax Act; regulates the taxation of contributions, investment income, and benefits.

1987: Pension and Provident Funds Act; regulates the establishment, registration, and operation of pension and provident funds.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

Complementary occupational pension plans are usually established by medium-sized and large employers. If a trade union exists, the employer may involve the trade union in the establishment of the plan.

Types of plans

Registered pension funds: Pension plans may be defined benefit or defined contribution and must be implemented through pension funds.

Pension funds are independent legal entities that must be registered with the Registrar of Pension and Provident Funds. A pension fund may be established and operated without being at least provisionally registered with the Registrar.

In order to register a pension fund, the Registrar must be provided with:

- An application for registration;
- Two sets of the fund rules;
- The registration fee.

The Registrar has considerable discretion as to whether to register a fund or not.

Pension funds must also obtain approval from the Commissioner of Taxes.

Registered provident funds: Provident plans are defined contribution and must be implemented through provident funds.

Most regulations that apply to pension funds equally apply to provident funds. Whereas registered provident funds are uncommon in Botswana, no further information is provided on provident funds in the following sections.

All plans: Participation in a plan is voluntary for covered employees.

Institutional Framework

Registered pension funds: Registered pension funds must be independent legal entities separate from the sponsoring employer.

Each registered fund must have a registered office in Botswana, a principal officer who must be a resident of Botswana, and a management committee. There are no legal requirements for plan members to be represented on the management committee. The membership and responsibilities of the management committee must be defined in the fund rules.

The management committee may manage the contribution and benefit administration in-house (self-administered fund) or contract the management to an external administrator. There are no legal rules, and no registration or licensing requirements as to who may be an external administrator.

Whereas no trust law exists in Botswana, any officer of a pension fund has fiduciary obligations and civil liabilities similar to a trustee under trust law.

Funds implementing defined benefits plans must appoint an actuary and an auditor. Funds implementing defined contribution plans need only appoint an auditor.

Coverage

Registered pension funds: Private-sector employees and employees of parastatal institutions.

There are no legal rules concerning discrimination. Plans are usually established for permanent employees at middle and senior levels. While discrimination based on gender exists, it is a decreasing practice.

Government employees are not covered by a pension plan established under the terms of the Pension and Provident Funds Act but benefit either from an unfunded defined benefit plan financed out of government revenues or from a defined contribution plan implemented through the Botswana Public Officers Pension Fund. The latter was established on April 1, 2001, and government employees may choose between the two plans. No further information about these plans is provided in the following sections.

Financing / Investment

Sources of funds

Registered pension funds: Contributions depend on plan rules and are, for tax reasons, usually limited to a maximum of 20% of salary.

Under an average plan, total employer and employee contributions are around 14% of salary.

Employee contributions

Registered pension funds: Pension plans are contributory with employees usually contributing less than one-half of total contributions.

Under an average plan, the employee contribution is around 6% of salary.

There is no maximum salary for contribution purposes.

Employer contributions

Registered pension funds: Employers usually contribute more than one-half of total contributions.

Under an average plan, employer contributions range from 8% to 10% of salary.

There is no maximum salary for contribution purposes.

Other sources of funds

Registered pension funds: None.

Methods of financing

Registered pension funds: Funded.

Asset management

Registered pension funds: The assets may be managed by the management committee or the external administrator or be contracted to specialized asset managers. There are no legal rules concerning who can be an asset manager and there are no registration or licensing requirements for asset managers.

General restrictions on the investment of assets may at any time be defined by the Minister of Finance and Development Planning. If the Minister imposes such restrictions, funds have 3 years to adjust their investment practice accordingly.

Pension funds may invest in bonds, equities, and real estate.

Of total assets invested:

- A maximum of 70% may be abroad (provided that prior approval has been obtained from the Registrar, see below);
- A maximum of 5% may be in the business of the sponsoring employer or its associate companies (self-investment) provided that such investment does not endanger the rights of members (a higher limit may be authorized for certain funds by the Registrar).

Pension funds must obtain prior approval from the Registrar in order to invest assets abroad. This requirement is currently not strictly enforced.

Funds may grant housing loans to members and may borrow up to a maximum of 25% of the market value of their assets.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Registered pension funds: No legal rules.

The waiting period depends on plan rules. Confirmation of permanent employment usually translates into plan membership.

Vesting rules

Registered pension funds: No legal rules.

Vesting depends on plan rules and vesting scales vary. Full vesting may in extreme cases only occur after 20 years of plan membership.

Preservation, portability, transferability

Registered pension funds: Upon termination of employment before retirement, a part of the accrued rights can be withdrawn as a lump sum while the remainder may either be preserved until retirement or transferred to the plan of the new employer provided that the rules of the former and the new fund permit such transfers.

The cash value of the member's rights must be calculated upon termination of employment before retirement. If this amounts to BWP 20,000 or more, the member may receive a lump sum of up to 25% of the value. If the cash value of the accrued rights is between BWP 10,000 and BWP 20,000, the member may receive a lump sum of up to BWP 5,000. The remainder must in each case be preserved until retirement. If the cash value is less than BWP 10,000, the full amount may be taken as a lump sum, preserved until retirement, or transferred to the fund of the new employer.

Preserved employee contributions must earn interest of at least 2% a year. There are no legal requirements for preserved employer contributions to earn interest or to be adjusted.

Retirement benefits

Benefit qualifying conditions

Registered pension funds: No legal rules.

The benefit qualifying conditions depend on plan rules. The retirement age is 60 under an average plan.

Early retirement is usually possible from age 55.

Benefit structure / formula

Registered pension funds: Defined benefit or defined contribution.

The benefit structure and formula are defined in the plan rules.

Plans are not integrated with social security.

Full commutation of pensions to a lump sum upon retirement is allowed where the annual pension amounts to less than BWP 5,000 a year. If the annual pension exceeds BWP 5,000, the beneficiary may upon retirement commute up to one-third of pension rights to a lump sum.

In the case of defined benefit plans pensions are provided by the fund while in the case of defined contribution plans retirees may be required to buy an annuity from an insurance company of their choice.

Funds may grant housing loans to members before the regular plan retirement age.

Benefit adjustment

Registered pension funds: No legal rules.

Benefit adjustments depend on plan rules. Pensions under defined benefit plans are adjusted at the discretion of the management committee based on the recommendation of the actuary appointed to the fund. The adjustment under defined contribution plans depends on the type of annuity chosen.

Survivors

Registered pension funds: Death benefits must be paid as a lump sum equal to a maximum of four times annual pensionable salary of the deceased. Within this limit, the benefits depend on plan rules.

In addition, plan rules may provide for regular pensions to be paid to eligible survivors.

The management committee has some discretion in allocating survivor benefits based on the level of dependency of different survivors.

Disability

Registered pension funds: No legal rules.

Disability benefits depend on plan rules. Disabled members are eligible for early retirement under an average plan.

Protection of Rights

Protection of Assets

Registered pension funds: Pension funds are independent legal entities that must keep assets completely separate from the sponsoring employer who may neither have access to the assets nor influence the investment decisions.

Financial and Technical Requirements / Reporting

Registered pension funds: Pension funds must annually submit the following documents to the Registrar of Pension and Provident Funds:

- Accounts and financial statements audited by an auditor whom every fund must appoint (within 6 months of the end of the financial year);
- An investment statement outlining the investment instruments in which assets are invested;
- Details of the membership.

Each pension fund implementing a defined benefit plan must appoint an actuary to carry out actuarial valuations of the fund at least once every 3 years. The actuarial statements must be submitted to the Registrar.

Whistleblowing

Registered pension funds: If employers fail to pay the contributions on time, the principal officer must report this matter to the Registrar (contributions must be paid within 21 days of the end of the calendar month for which they are due).

Standards for service providers

Registered pension funds: No legal rules.

Fees

Registered pension funds: No legal rules.

Winding up / Merger and acquisition

Registered pension funds: If a plan is wound up and the pension fund implementing the plan is dissolved, claims to the fund assets must be satisfied in the following descending order:

- Secured creditors;
- Contributing members and retirees;
- Other claimants.

Pension funds may merge and assets may be transferred from one fund to another, subject to approval by the Registrar who must ensure that the change is in the interest of all members and in compliance with the existing fund rules.

Bankruptcy: Insolvency Insurance / Compensation Fund

Registered pension funds: Pension funds must insure themselves by way of employer guarantee or an insurance policy against dishonesty and fraud on the part of any fund official. The principal officer must determine the level of guarantee or insurance required to adequately protect the rights of members.

Disclosure of information / Individual action

Registered pension funds: Pension funds must provide members with a copy of the fund rules and, upon request, with the financial statements of the fund.

Fund rules must contain procedures for settling disputes between members and the management committee. If either party is not satisfied with the outcome of such settlement procedure it may appeal first to the Registrar and then to the Minister of

Finance and Development Planning.

Other measures

Registered pension funds: Amendments to fund rules are subject to approval by the Registrar. In order to obtain approval for the amendments, the principal officer must provide the Registrar with a certificate stating that the rules have been amended in compliance with the rules themselves and explaining the reasons for the amendment. Where the amendment affects the financial position of the fund, a statement by the actuary or the auditor of the fund that certifies the fund's financial soundness after the amendment must also be submitted.

Tax Treatment

Taxation of employee contributions

Registered pension funds: Employee contributions are tax-deductible if the joint employee and employer contribution does not exceed 20% of salary (no ceiling on salary).

Taxation of employer contributions

Registered pension funds: Employer contributions are tax-deductible if the joint employee and employer contribution does not exceed 20% of salary (no ceiling on salary).

Taxation of investment income

Registered pension funds: Tax-exempt.

Taxation of benefits

Registered pension funds: Up to one-third of the pension may upon retirement be commuted to a tax-free lump sum if the annual pension exceeds BWP5,000. Full commutation to a tax-free lump sum is allowed upon retirement in cases where the annual pension is less than BWP5,000.

Pension benefits are taxed in the same way as salary.

Cash withdrawals upon termination of employment before retirement are fully taxable.

Regulatory and Supervisory Authorities

Registrar of Pension and Provident Funds: Registers and supervises pension and provident funds.

The Registrar may conduct any investigation with regard to the administration of a pension or provident fund.

The Registrar is part of the Ministry of Finance and Development Planning.

Ministry of Finance and Development Planning
Registrar of Pension and Provident Funds,
Private Bag 008,
Gaborone,
Botswana
Tel.: (+267) 3950 373
Fax: (+267) 3951 051
Internet: www.finance.gov.bw

Kenya

Exchange rate: USD 1.00 equals 81.15 shillings (KES).

Regulatory Framework

2000: The Retirement Benefits (occupational retirement benefits schemes) Regulations; contain rules concerning administration, membership and benefits under occupational pension plans and define guidelines for the investment of plan assets.

2000: The Retirement Benefits (minimum funding level and winding up of schemes) Regulations; define a minimum funding level and govern the winding up of occupational pension plans.

2000: The Retirement Benefits (managers and custodians) Regulations; contain rules on the conditions and process for registration of custodians and managers.

1997: Retirement Benefits Act; establishes the Retirement Benefits Authority for the regulation, supervision and promotion of privately managed retirement plans, regulates the registration and operation of occupational pension plans.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis a complementary occupational pension plan for their employees.

Most plans are single employer plans and collective bargaining is usually not part of the process of establishing a plan.

Types of plans

Pension plans: Employers may establish occupational pension plans that can be defined benefit or defined contribution and that provide a regular old-age pension to the retiree. Only a limited part of the pension may be commuted to a lump sum at retirement.

Provident plans: Employers may establish occupational provident plans that can be defined benefit or defined contribution and provide a lump sum at retirement.

All plans: All occupational pension and provident plans must be:

- Established under an irrevocable trust;
- Have a registered office in Kenya;
- Apply for a certificate of registration with the Retirement Benefits Authority.

Membership of an occupational pension or provident plan is not compulsory for covered employees. Once an employee decides to become a member, however, withdrawal from membership while being employed by the same employer is not allowed.

Employees must be allowed to pay additional voluntary contributions to the plan without any limit (although contributions are only tax-deductible up to the lower of KES 17,500 or 30% of salary).

Institutional Framework

All plans: Pension and provident plans must be established under an irrevocable trust and plan assets must be held in a pension or provident fund respectively completely separate from all other assets under the control of the trustees. The trustees may appoint a pooled fund (funds bringing together the assets of several plans with the aim of collective investment - see section, Asset management) to manage the plan assets in which case the establishment of a separate pension or provident fund is not required.

Plans must have at least three trustees unless a corporate trustee is appointed. At least one-third of the trustees must be nominated by plan members. Trustees must:

- Not have been imprisoned for six months or longer;
- Not be adjudged bankrupts;

- Not have been involved in the management of a plan that was deregistered due to failures of the management;
- Not be disqualified under any law;
- Not be deemed by the Retirement Benefits Authority to have a negative impact on the plan.

The trustees may appoint an administrator to undertake the day-to-day management of a plan. The trustees must inform the Retirement Benefits Authority of the qualifications and other details of the administrator. There is, however, no requirement for administrators to be licensed by, or registered with, the Retirement Benefits Authority.

The plan rules must adequately protect the rights of plan members and sponsors and must regulate, among other things, the following issues:

- Plan membership;
- Benefit qualifying conditions including normal retirement age and benefit structure and formula;
- Survivor benefits;
- Appointment and powers of trustees and administrator;
- Contribution rates;
- Vesting rules;
- Pensionable salary;
- Investment of plan assets;
- Custody of plan assets and appointment of an auditor;
- Dispute settlement procedures.

Coverage

All plans: Private and public-sector employees.

Plans rules must not discriminate with regard to admission to membership on the basis of gender, race, religion or any other discriminatory manner and there must not be any discretionary power concerning admission. Employees who are within five years of the plan retirement age when they commence work with the employer or when a new plan is established must not be eligible for membership.

Plan rules may provide for different benefit formulas for different categories of workers if:

- The difference is justified by actuarial considerations;
- The difference is intended to favour members working in hazardous occupations;
- The difference has been approved by the Retirement Benefits Authority.

The Authority must not approve different benefit formulas for different categories of workers if the difference is based on salaries, wages, gender, rank or seniority.

The self-employed may become members of personal retirement benefit plans. These plans are not covered further in the following sections.

Financing / Investment

Sources of funds

Employee contributions

All plans: No legal rules.

Employee contribution rates must be regulated in the plan rules and plans can be contributory or noncontributory.

A typical plan requires employees to contribute at a rate of 5% of salary.

Employer contributions

All plans: No legal rules.

Employer contribution rates must be regulated in the plan rules in the case of defined contribution plans and are fixed by the plan actuary in the case of defined benefit plans. Employers may take contribution holidays under certain circumstances.

Employers usually contribute double the employee contribution rate and a typical plan therefore requires employers to pay 10% of salary.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Asset management

All plans: The trustees may manage plan assets themselves or contract the asset management to an asset manager.

Asset managers must be registered with the Retirement Benefits Authority. In order to be registered, an asset manager must:

- Be a limited liability company with the major business aim of managing assets of pension and provident plans;
- Have a minimum paid-up capital of KES 10 million;
- Have the professional capabilities to pursue its functions properly;
- Not have been manager of the plan assets of a plan that has been deregistered due to the actions of the asset manager.

The asset manager registration must be renewed annually.

Trustees may also appoint a pooled fund (funds bringing together the assets of several plans with the aim of collective investment) to manage plan assets. In choosing whether a certain pooled fund should be appointed, trustees must ensure that it has been established by a limited liability company that:

- Has a minimum paid up share capital of KES 10 million;
- Has the professional and technical means and systems to carry out its function;
- Has developed a prudent investment policy for the investment of the pooled funds.

Trustees are jointly liable if they appoint a pooled fund that does not fulfil these requirements.

Pooled fund assets may be managed by the limited liability company setting up the fund or an asset manager approved under the procedure described above.

Trustees must prepare a written statement of investment policy under the advice of a professional investment advisor that contains the principles determining investment decisions. The statement must include information on the categories of investments to be held, the risk and the realization of investments. It must be submitted to the Retirement Benefits Authority and be revised every three years.

Of total assets invested:

- A maximum of 5% may be in cash and deposits payable on demand in institutions licensed under the Banking Act of the Republic of Kenya;
- A maximum of 30% may be in fixed deposits, time deposits and certificates of deposits in institutions licensed under the Banking Act of the Republic of Kenya;
- A maximum of 30% may be in commercial paper, corporate bonds, mortgage bonds and loan stocks approved by the Capital Markets Authority, and in collective investment schemes that invest in these assets and that are incorporated in Kenya and approved by the Capital Markets Authority;
- A maximum of 70% may be in Kenya Government Securities, and in collective investment schemes that invest in these assets and that are incorporated in Kenya and approved by the Capital Markets Authority;
- A maximum of 70% may be in preference shares and ordinary shares of companies quoted on a stock exchange in Kenya, Uganda or Tanzania, and in collective investment schemes that invest in these assets and that are incorporated in Kenya and approved by the Capital Markets Authority;
- A maximum of 30% may be in the quoted equity of any one company;
- A maximum of 5% may be in unquoted shares of companies incorporated in Kenya, and in collective investment schemes that invest in these assets and that are incorporated in Kenya and approved by the Capital Markets Authority;
- A maximum of 15% may be in offshore investments in bank deposits, government securities, quoted equities and rated Corporate Bonds, and in offshore collective investment schemes that invest in these assets;
- A maximum of 30% may be in immovable property in Kenya and units in property Unit Trust Schemes incorporated in Kenya, and in collective investment schemes that invest in these assets and that are incorporated in Kenya and approved by the Capital Markets Authority;

- A maximum of 5% may be in any other assets subject to the prior approval of the Authority.

These maximum limits may be violated in cases of asset revaluation or appreciation for a period of no more than 90 days.

Plan assets must not be used to make direct or indirect loans to any person and must not be invested with a bank, nonbanking financial institution, insurance company, or similar institution with a view to securing loans, including mortgages, at a preferential rate of interest or for any other consideration to the sponsor, trustees, members or manager of a plan.

Plan assets must be kept by a custodian. If a pooled fund is appointed, the pooled fund manager chooses the custodian. Separate accounts must be maintained by the custodian of a pooled fund for the assets of each plan.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: The legal maximum waiting period is one year, although the Retirement Benefits Authority may approve exceptions to this rule.

A waiting period must not be applied if a new employee transfers accrued rights from a plan sponsored by the previous employer to the new employer.

Employees within five years of the plan retirement age when they commence work with the employer or when a new plan is established must not become members of a plan.

Vesting rules

All plans: Employee contributions vest immediately. Employer contributions must be fully vested after a maximum of five years.

Plans often provide for a vesting scale under which a part of the employer contributions are vested after less than five years of plan membership.

Upon terminating employment before full vesting of employer contributions, employees are entitled to a refund of their own contributions and the vested part of the employer contributions plus interest.

Preservation, portability, transferability

All plans: Plan rules must provide for the treatment of accrued rights in the case of termination of employment before retirement. Such provisions must include one of, or a choice between, the following:

- Cash payout of the value of accrued benefits to the leaving member;
- Preservation of benefits until the member attains the plan retirement age;
- Transfer of the value of accrued benefits to another plan.

If a member of a defined benefit plan opts for a transfer of benefits to another plan, the transfer value must be reviewed and certified by an actuary.

Retirement benefits

Benefit qualifying conditions

All plans: No legal rules.

Retirement age must be regulated in the plan rules and there is no legal lower or upper limit.

Benefit structure / formula

All plans: Plans are not integrated with the social security scheme.

Pension plans: Pension plans may be defined benefit or defined contribution and must provide a monthly pension for life.

Pensionable salary and accrual rates must be defined in the plan rules.

Part of the pension may be commuted to a lump sum in which case the following rules apply:

- Up to 25% of the pension may be commuted if the plan is noncontributory;
- Up to one-third of the pension may be commuted if the plan is contributory;
- The benefits accrued by means of additional voluntary contributions may be commuted in full.

The formula for commutation must be determined by an actuary and included in the plan rules.

Provident plans: Provident plans may be defined contribution or defined benefit and provide a lump sum at retirement.

Benefit adjustment

All plans: No legal rules.

Trustees may decide on benefit increases, but every increase must be recommended and certified by an actuary.

Survivors

All plans: In the case of death of a plan member or retiree, benefits must be paid to a person nominated by the deceased. If the deceased had not nominated any beneficiary, the trustees must exercise discretion in the distribution of benefits to the dependants of the deceased.

The plan rules may provide for trustees' discretion with regard to:

- The retirement benefits payable to a nominated beneficiary;
- The retirement benefits payable to the deceased member's children;
- The apportionment of benefit among all eligible dependents.

Plan rules may provide for all survivor benefits to be paid as lump sums if the survivors request so in writing.

Disability

All plans: If members prove by means of medical evidence submitted to the trustees that they are permanently disabled and cannot perform their normal gainful employment or any other reasonably suitable occupation, they may receive their accrued benefits before the plan retirement age.

Protection of Rights

Protection of Assets

All plans: Plan assets must be kept in a pension, provident or pooled fund completely separate from the assets of the sponsoring employer. Plan assets are not assets of the employer in the event of employer bankruptcy.

Plan assets must be held by a custodian.

Financial and Technical Requirements / Reporting

All plans: Within a period of three months of the end of each financial year, the trustees must prepare a balance sheet, a statement of income and expenditure and a statement of assets and liabilities with regard to the plan.

The trustees must appoint an auditor within three months of the plan's registration to audit the accounts once a year.

Trustees must submit the following documents to the Retirement Benefits Authority once a year:

- Audited annual accounts within four months of the end of each financial year;
- Trustees' report;
- Investment report.

Financial statements must regularly be submitted providing information on the following issues:

- Unpaid contributions (contribution reports must be submitted every three months);
- Expenditures for, or on behalf of, trustees;
- Investment returns (investment reports must be submitted every three months);
- Transactions with related companies;
- Ownership of more than 10% of the equity of any company.

The Authority may require the trustees to inform it of the annual expenditures for the plan administration.

Trustees must have an actuarial valuation prepared by an actuary every three years in the case of defined benefit plans and every five years in the case of

defined contribution plans and must submit the actuarial report to the Authority.

In addition, trustees must have an actuarial report prepared in the case of:

- Major benefit improvements;
- Significant changes in the size of plan membership;
- Mergers and winding up;
- Any other special situation with financial impact;
- A corresponding request by the Authority.

A minimum funding requirement applies and a plan is considered to be underfunded if:

- Assets cover less than 80% of liabilities;
- It cannot meet liabilities when they become due.

If the Retirement Benefits Authority finds that a plan is underfunded, the trustees must submit a remedial plan within 30 days that proposes measures to improve the funding level. This plan is subject to the approval of the Authority and it must be implemented within 3 years. The Authority may require the trustees to amend the remedial plan.

If the Authority is of the opinion that the efforts of the trustees to improve the funding level are ineffective, impracticable or unsatisfactory, it may apply to a court to wind up the plan (see section Protection of Rights, Winding up / merger and acquisition).

Whistleblowing

All plans: Trustees, asset managers or custodians must immediately inform the Retirement Benefits Authority if they become aware of any event that may endanger the rights of the members or the sponsor of the plan.

Standards for service providers

All plans: Custodians must be registered with the Retirement Benefits Authority. In order to be registered, a custodian must:

- Be a limited liability company with the major business aim of carrying out custodial functions;
- Have a minimum paid-up share capital of KES 250 million;
- Have the professional and technical means and systems to carry out its function;
- Not have been custodian of the plan assets of a plan that has been deregistered due to the actions of the custodian.

The custodian registration must be renewed annually.

Auditors must be members of the Institute of Certified Public Accountants of Kenya and their appointment must be approved by the Retirement Benefits Authority.

Actuaries authorized to prepare a valuation must be recognized as actuaries by the Institute of Actuaries in England, the Faculty of Actuaries in Scotland, the Canadian Institute of Actuaries, Society of Actuaries of the United States or the Institute of Actuaries of Australia or must be a person holding equivalent qualifications.

Fees

All plans: The Retirement Benefits Authority may require the trustees to inform it of the annual expenditure for the plan administration.

Winding up / Merger and acquisition

All plans: Plans may be wound up following a voluntary decision by the sponsor subject to approval by the Authority or if the Authority applies to the court for the winding up of a plan in cases where it is underfunded or its trustees continuously violate legal requirements.

If a plan is wound up, a liquidator must be appointed and the accrued benefits of all members must be transferred to another occupational or personal plan chosen by the members. In this case, plan members are considered to be deferred creditors and their claims must not be settled until the claims of ordinary creditors have been settled. Plans that have been wound up are deregistered by the Authority.

Mergers of plans are allowed if the Authority is convinced that the rights of members are sufficiently protected.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There is no requirement for plans to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

All plans: Certain information must be disclosed to plan members on a regular basis. Plan members must annually be provided with benefit statements. In addition, the trustees must send a summary of the audited accounts to the plan members within six months of the end of the financial year and inform them that the full audited accounts as well as the trustees' and the investment report are available for inspection. The actuarial valuation report must be made available for inspection within 3 months of its receipt by the trustees.

Plan members who are aggrieved by a decision of the trustees may complain to the Retirement Benefits Authority in writing and request that such decision be reviewed with regard to its compliance with plan rules and legal requirements.

An Appeals Tribunal has been established to which a plan member can appeal against the decisions of the Authority.

Other measures

All plans: Amendments to plan rules must be approved by, and registered with, the Retirement Benefits Authority. Approval is only granted if the amendment:

- Does not reduce accrued rights of members;
- Does not harm the interests of the sponsor;
- Does not negatively affect the rights of any creditor other than a member;
- Is certified by an actuary if it affects the financial position of the plan.

Tax Treatment

Taxation of employee contributions

All plans: The total of employee and employer contributions is tax-deductible up to the limit of the lower of KES 17,500 or 30% of salary.

Taxation of employer contributions

All plans: The total of employee and employer contributions is tax-deductible up to the limit of the lower of KES 17,500 or 30% of salary.

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

All plans: The part of a lump-sum benefit under KES 360,000 is tax-exempt. The part of the lump sum between KES 360,000 and KES 471,616 is taxed at a rate of 10%, between KES 471,616 and KES 581,056 at 15%, between KES 581,056 and KES 690,496 at 20%, between KES 690,496 and KES 799,936 at 25%, and the part of the lump sum exceeding the latter amount is taxed at a rate of 30%.

The first KES 150,000 of yearly pension income is tax-exempt, the next KES 111,616 are taxed at a rate of 10%, the next KES 109,440 at 15%, the next KES 109,440 at 20%, the next KES 109,440 at 25% and the pension income exceeding these amounts is taxed at a rate of 30%.

Regulatory and Supervisory Authorities

Retirement Benefits Authority: supervises privately managed retirement plans and protects the interests of plan members and sponsors.

The Authority may inspect any plan, asset manager or custodian. The trustees, asset manager or custodian of an inspected plan must provide the inspector with all requested information.

If the trustees do not submit the annual accounts to

the Authority, if the submitted documents are false or misleading or if the Authority becomes aware of facts that make it necessary, the Authority may:

- Appoint an interim administrator to the plan to take over the functions of the trustees, asset manager or custodian;
- Remove any employee of the trustees, asset manager or custodian whose actions do not comply with legal requirements.

The period of office of the interim administrator must not exceed 12 months. The interim administrator must prepare a report to the Authority and recommend whether a sound position of the plan may be restored or whether the plan should be wound up and deregistered.

The Retirement Benefits Authority is governed by a Board of Directors consisting of:

- A Chairman appointed by the Minister of Finance (one of the five experts noted below);
- A Chief Executive Officer responsible for its day-to-day administration;
- The Permanent Secretary in the Ministry of Finance;
- The Commissioner of Insurance;
- The Chief Executive of the Financial Markets Authority;
- Five members who must not be public officers and who are appointed by the Minister of Finance (on the bases of their knowledge or experience in the areas of asset management, banking, insurance, law or actuarial studies).

The Authority is financed through a Retirement Benefits Levy paid by the supervised entities. The annual levy on occupational pension and provident plans consists of a percentage of the net asset value of a plan and its minimum is KES 6,000 a year.

Retirement Benefits Authority
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South Africa

Exchange rate: USD 1.00 equals 5.79 rand (ZAR).

Regulatory Framework

2001: Pension Funds Second Amendment Act; amends the Pension Funds Act of 1956 to provide for the apportionment of surplus to stakeholders which includes employers, members, pensioners, deferred pensioners, and former members.

1997: Pension Funds Amendment Act; amends the Pension Funds Act of 1956 to require every pension and provident fund to be governed by a board and establishes the Pension Funds Adjudicator.

1962: Income Tax Act; regulates the tax treatment of contributions and benefits and makes membership compulsory for covered employees.

1956: Pension Funds Act; provides for the registration and supervision of pension and provident funds and authorizes the Minister of Finance to make regulations with regard to all matters of the Act (the Minister has used this power to regulate, besides other issues, asset investment restrictions).

Plan Profile

Plan sponsors

An employer or a group of related (subsidiary and associated) employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees. The main rules, such as the type of plan and the contributions and benefits, must be agreed upon jointly by employers and employees.

Fund administrators approved by the Financial Services Board may establish open pension plans and offer them to employers. Employers who affiliate their employees to such a plan are not referred to as sponsoring but as participating employers.

Retirement annuity funds are established by administrators for the benefit of individuals who do not have access to an employer established retirement fund (to provide coverage to the self-employed or to provide additional retirement benefits).

Types of plans

Pension plans: Employers may establish, and approved fund administrators may offer, pension plans that may be defined benefit or defined contribution and provide pension benefits at retirement.

Pension plans are implemented through the establishment of a pension fund.

Provident plans: Employers may establish, and approved fund administrators may offer, provident plans that are defined contribution and provide a choice of a lump sum or an annuity at retirement.

Provident plans are implemented through the establishment of a provident fund.

Open plans: Pension and provident funds that are established and offered to employers by approved fund administrators are known as umbrella funds or retirement annuity funds.

All plans: Every fund under the supervision of the Financial Services Board (see section Coverage) must first apply to the Board for registration. The application must be accompanied by:

- Details of the members of the fund board (see section Institutional Framework);
- A copy of the fund rules;
- A certificate signed by an actuary proving the financial soundness of the fund rules.

Among others, the fund rules must regulate the following issues:

- Eligibility conditions for membership;
- The powers of the fund board and the appointment, remuneration, and dismissal of board members;
- Acquisition of rights;
- Appointment of an auditor;
- Appointment of an actuary;
- Rules governing the dissolution of the fund;
- A dispute settlement procedure for disputes

between the fund and its members;
- Nature and calculation of benefits;
- Benefit eligibility conditions;
- Contribution rates;
- Provision for fidelity cover; and
- Procedure and circumstances under which a retirement fund may be terminated.

Funds must be approved by the South African Revenue Services in terms of the Income Tax Act to receive favourable tax treatment. In order to be approved:

- Membership must be compulsory for employees eligible to belong to the fund in terms of the fund's rules;
- The benefit eligibility age must be between the minimum and maximum ages stipulated by law;
- The provisions concerning contributions and benefits must be structured in such a way that there is no tax evasion.

Membership is compulsory for covered employees.

The fund rules may allow members to make additional voluntary contributions.

Institutional Framework

All plans: Pension and provident funds are in terms of the Act separate legal entities, independent of the sponsoring employers or approved fund administrators. Funds must not carry out any other business than the business of a pension or provident fund.

Every fund must be governed by a board consisting of at least four members. At least 50% of the board members must be elected by the fund members (legally defined as the class of persons for whose benefit the fund has been established including pensioners of the fund). The procedure for the election and the powers of the board must be regulated in the fund rules. The Financial Services Board may authorize a fund to have a smaller board if four members would be impractical or unreasonably expensive on condition that the members retain the right to elect at least 50% of the board members.

The Financial Services Board may exempt an umbrella fund or a retirement annuity fund established by an approved fund administrator from the 50% member representation requirement where the participating employers are not subsidiaries of a single holding company.

The fund board directs, controls, and oversees the operations of a fund in accordance with legal requirements and the fund rules. In pursuing these tasks, the board must:

- Take reasonable measures to ensure that the interests of members are protected;
- Act with due care, diligence, and in good faith;
- Avoid conflicts of interest;
- Act with impartiality in respect of all members and beneficiaries.

The duties of the fund board are to:

- Ensure that proper registers, books, and records are kept;
- Ensure that proper control systems are used by or on behalf of the board;
- Ensure that adequate and appropriate information is communicated to the fund members (see section Protection of Rights/Disclosure of Information/ Individual Action);
- Take all reasonable steps to ensure that contributions are paid in time; and
- Ensure that the rules and the administration of the fund comply with all legal requirements.

Pension and provident funds may manage the contribution and benefit administration in-house (and are in such cases known as privately administered funds) or contract to administrators approved by the Financial Services Board. Funds may also be insured with one or several insurance companies (and are in this case known as underwritten funds) in which case the fund assets consist only of claims against the insurers. Insurance companies must be licensed in accordance with applicable legislation.

Coverage

All plans: Private- and public-sector employees, including civil servants. However, certain

arrangements for public-sector employees and civil servants are not regulated in the terms of the Pension Funds Act of 1956, and are not supervised by the Financial Services Board. These are:

- Funds that have been established by special laws for employees of the state and certain parastatal institutions;
- Funds established by other Acts (i.e. Transnet Fund, Telkom Fund, and Post Office Fund);
- Funds that have been established by collective agreements concluded by councils in terms of the Labour Relations Act of 1995.

Unfair discrimination on the grounds of gender and age is prohibited. Plans usually cover only formally employed persons. Age limits for joining are common and must, if applied, be defined in the fund rules. The minimum age is usually age 18 and the maximum age is usually age 65.

Self-employed persons and covered employees who wish to provide for additional retirement income may participate in a tax-effective retirement annuity fund that is a savings vehicle under which a part of the benefits may be paid as a lump sum and a part must be used to purchase an annuity at retirement.

No further information on the regulations covering public-sector, civil servant, and retirement annuity funds is provided in the following sections.

Financing / Investment

Sources of funds

Employee contributions

All plans: Employee contributions must be defined in the fund rules within limits defined by tax legislation (see section Tax Treatment).

Employer contributions

All plans: Employer contributions must be defined in the fund rules within limits defined by tax legislation (see section Tax Treatment).

If the plan is defined contribution, employers usually contribute at a specified rate of the contributory salary of members.

If the plan is defined benefit, employer contributions depend on funding requirements. The required employer contribution rate is defined by an actuary triennially to ensure that the fund meets its liabilities.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Asset management

All plans: Funds may manage the assets in-house or contract the asset management to an external asset manager (e.g. a portfolio manager or a stock broker) or an insurance company, which must be licensed in terms of the Stock Exchanges Control Act, the Financial Markets Control Act, the Unit Trust Control Act, the Long Term Insurance Act, or the Pension Funds Act of 1956.

Regulation 28 made by the Minister of Finance in terms of the Pension Funds Act prescribes prudential investment guidelines and stipulates maximum percentage limits for the investment in certain asset classes. Certain of these prudential guidelines and maximum limits prescribe that of total assets invested:

- A maximum of 90% may be in both equities and property;
- A maximum of 75% may be in equities;
- A maximum of 15% may be in large capitalization listed equity, and 10% in a single other equity;
- A maximum of 25% may be in property;
- A maximum of 20% may be in deposits with any single bank;
- A maximum of 15% may be in securities issued outside South Africa;
- A maximum of 2.5% may be in "other assets". Certain derivative instruments and investment in unregulated hedge funds are included within this category.

A maximum of 5% of total assets may be invested in a sponsoring or participating employer (including a subsidiary or holding company of the employer).

The Financial Services Board may increase this limit to 10% if the fund board has certified that it has consulted the members about this investment and that the members supported it. Such an investment may only be made if it is in the best interest of the fund.

A fund may, if its rules so permit, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than the fund member in respect of a loan granted, or to be granted, to enable the member to:

- Redeem a loan granted to the member by a person other than the fund, against security of immovable property which belongs to the member or the member's spouse and on which a dwelling has been or will be erected which is occupied by the member or a dependent;
- Purchase a dwelling, or purchase land and erect a dwelling on it, for occupation by the member or dependents;
- Make additions to, or repair, a dwelling which belongs to the member or the member's spouse and in which they live.

A loan can only be granted if it is secured by a mortgage on the property, by a pledge of the benefits to which the member is entitled, or by a combination of both.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Fund rules may provide for a waiting period.

Age limits for joining are common and must, if applied, be defined in the fund rules. The minimum age is usually age 18 and the maximum age is usually age 65.

Vesting rules

All plans: Surplus legislation determines minimum benefits to be paid to a member on withdrawal from a fund.

On terminating employment before contributions are vested, employees usually receive a refund of their own contributions, employer contributions, and if applicable a portion of the reserve accounts, with interest.

Preservation, portability, transferability

All plans: Upon termination of employment before retirement, members may, subject to fund rules, transfer their accrued rights to the fund of the new employer. Where the fund of the new employer does not accept transfers-in, members may preserve their benefits in the fund of the former employer, if the fund rules so permit, or transfer their accrued rights to a retirement annuity fund or a preservation fund. Retirement annuity funds are tax-effective personal savings vehicles under which a part of the benefits may be paid as a lump sum and a part must be used to purchase an annuity at retirement. Preservation funds may be used to preserve accrued benefits until retirement.

Transfers must comply with tax legislation in order to be tax-free, which implies that they are in most cases carried out with the approval and under the supervision of the South African Revenue Services.

There is no legal requirement for preserved rights to be indexed. Preserved rights are usually increased in the case of retrenched employees, but not for employees who voluntarily resign from employment.

Retirement benefits

Benefit qualifying conditions

All plans: Tax legislation requires the retirement age to be between ages 50 and 70 and for the retirement age to be defined in the fund rules. The lower age requirement may be dispensed with where it is no longer possible for members to exercise their occupation after attaining a certain age (e.g. rugby players or ballerinas).

Fund rules must determine whether or not early or deferred retirement is allowed.

Most fund rules provide for a retirement age of 65 for men and women and for early retirement usually from age 55.

Benefit structure / formula

All plans: Not integrated with social security benefits.

Pension plans: Defined benefit or defined contribution.

Retirees may commute up to one-third of their benefits to a lump-sum payment.

If defined benefit, benefits accrue at a specific rate defined in the fund rules for each year of pensionable service. There is usually no maximum limit for pensionable service. The benefit calculation is based on pensionable salary that is defined in the fund rules within the limits stipulated by tax legislation. Pensionable salary is usually defined as either the highest average of 3 consecutive yearly salaries or the salary in the last year before retirement.

Pensions may be paid directly by the fund or through annuity policies purchased from long-term insurance companies approved by the Registrar of Long-Term Insurance in terms of the Long-Term Insurance Act.

If defined contribution, the portion of the accumulated capital that is not taken as a lump sum must be used to purchase an annuity from an approved long-term insurance company.

Provident plans: Defined contribution.

Retirees may choose between receiving their total accumulated capital as a lump sum and can purchase an annuity from an approved long-term insurance company by means of all or part of the capital or invest the proceeds in other investment vehicles, depending on the fund's rules.

Benefit adjustment

All plans: No legal rules.

Pensions in payment are usually increased according to inflation, depending on the fund's rules. The decision to adjust benefits is at the discretion of the fund board, based on the opinion of the actuary and the financial position of the fund.

Survivors

All plans: No legal rules.

Plans which have provision for spouses and dependents only provide death-in-service benefits.

Survivor benefits are usually insured separately.

It is the responsibility of the fund board to allocate the benefits to different beneficiaries.

Pension plans: If defined benefit, a spouse's pension, usually determined as a percentage of the deceased member's old-age pension that would have accrued by normal retirement age, is provided.

If defined contribution, a lump-sum benefit of a multiple of the deceased member's annual salary is provided.

Provident plans: Usually provide a lump-sum benefit of a multiple of the deceased member's annual salary.

Disability

All plans: No legal rules.

Disability benefits are insured separately and usually are equal to a percentage of the disabled member's salary at the onset of disability, depending on the fund's rules. (The employer may provide for disability benefits outside the retirement fund.)

Protection of Rights

Protection of Assets

All plans: Pension and provident funds are independent legal entities and fund assets must be kept completely separate from the sponsoring or participating employers.

Financial and Technical Requirements / Reporting

All plans: Privately administered funds (see section Institutional Framework) must appoint an auditor to audit the fund and to prepare audited accounts at least annually for submission to the Financial Services

Board. Underwritten funds (see section Institutional Framework) must, from 1 January 2006, appoint an auditor to audit the fund and prepare audited financial statements. Funds with assets less than ZAR 500,000 and contributions less than ZAR 150,000 are exempted from audit and submit financial statements approved by the board of the fund.

An actuary must be appointed to assess the fund's financial position at least every 3 years and to submit a report to the Financial Services Board. If defined contribution, the fund can apply to the Financial Services Board to be exempted from this provision and must then only submit a certificate by an actuary confirming that certain legal and financial requirements are met. The Financial Services Board may require a fund to have its financial position investigated annually.

If defined benefit, a minimum funding requirement of 100% of the liabilities (calculated by taking future salary increases into account) applies. If a fund is underfunded, the Financial Services Board must direct the fund to submit a proposal containing the arrangements which will bring the fund into a financially sound condition within a reasonable period. The proposal must be accompanied by a report of an actuary. The Financial Services Board may request changes to the proposal and if it decides that full funding cannot be achieved it may apply to the court for an order to wind up the fund.

Whistleblowing

All plans: No legal rules.

Standards for service providers

All plans: Auditors must be independent from the fund and registered under the Public Accountants' and Auditors' Act of 1991.

Actuaries must have, in the opinion of the Financial Services Board, sufficient knowledge to carry out their duties.

The appointment of an auditor and actuary is subject to approval by the Financial Services Board.

Benefit and investment administrators must be registered as such with the Financial Services Board.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All plans: If a fund is fully or partially dissolved, a liquidator must be appointed who must submit a preliminary account and balance sheet to the Financial Services Board.

During the procedure of dissolution, the liquidation accounts must be advertised and a period must be allowed for complaints before the Financial Services Board approves the accounts and gives permission to pay out benefits. The liquidator is responsible for attending to complaints during this period. Where a fund has surplus assets, the liquidator is responsible for the distribution of surplus procedure, as set out in the Act.

The procedures for allocating assets are subject to fund rules and thus vary from fund to fund. It is usual that after payment of creditors, the payments to pensioners are secured first and the balance is distributed equitably or actuarially between contributing members thereafter.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There is no requirement for funds to insure against financial loss and no compensation fund exists.

Disclosure of information / Individual action

All plans: Members must upon joining be provided with an explanatory pamphlet on the fund. Thereafter the fund must at least once a year provide each member with:

- Details on the fund (e.g. contact person, registered address etc.);
- A statement of benefits that become payable at retirement (and on death and disability if applicable);

- Information on the benefits payable on withdrawal from the fund (including information on vesting provisions);
- Details on the contribution rate and the calculation of contributions.

Members must be notified of specific events (e.g. reduction or increases in the contribution rate, transfer of benefits to another fund, or the conversion from defined benefit to defined contribution).

The fund rules must establish a dispute settlement procedure for disputes between the fund and its members. In addition, a member or beneficiary or a former member or beneficiary of a pension fund, a sponsoring or participating employer, the fund board, or a member of the fund board may lodge a complaint with the Pension Funds Adjudicator relating to:

- The administration of the fund;
- The investment of the fund assets;
- The interpretation and application of the fund rules.

Additionally, the complaint must allege one of the following:

- The fund has made a decision outside its powers;
- The complainant has been prejudiced as a result of maladministration by the fund;
- A dispute of fact or law has arisen in relation to a fund between the fund or any person and the complainant;
- Employers who sponsor, or participate in, the fund have not fulfilled their duties in terms of the fund rules.

The Pension Funds Adjudicator then investigates the complaint and makes an order of law.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: Employee contributions are tax-deductible up to 7.5% of annual pensionable salary.

Pensionable salary must be defined in line with tax legislation.

Taxation of employer contributions

All plans: Employer contributions are tax-deductible up to 10% of annual pensionable salary. The South African Revenue Commissioner may increase this limit and in practice employer contributions are tax-deductible up to the limit of 20% of annual pensionable salary.

If a defined benefit plan is underfunded the South African Revenue Commissioner may permit temporary higher tax-deductible limits on employer contributions to restore a sound funding position.

Employer contributions are not considered to be taxable fringe benefits for employees.

Taxation of investment income

All plans: Taxed at a rate of 25%.

Taxation of benefits

All plans: Pension benefits are taxed as earned income.

A portion of lump-sum benefits at retirement is tax-exempt. The tax-free portion is one-tenth of the highest 5 consecutive years average annual salary (with a maximum of ZAR 60,000) times years of membership (with a maximum of 50 years taken into account). This tax-free amount is limited to the greater of ZAR 120,000 or ZAR 4,500 times years of membership. The remaining portion of the lump sum is taxed as earned income.

Benefits are taxed at the higher of the average tax rates of the retiree in the year of retirement and the preceding year.

Regulatory and Supervisory Authorities

Financial Services Board: Independent institution established to supervise the South African nonbanking financial services industry including pension and

provident funds. The executive officer and a deputy executive officer of the Board are also the Registrar and Deputy Registrar of pension and provident funds.

The Financial Services Board may carry out any investigation or inspection as it sees fit and, among other things, approves, and may require changes to:

- The fund rules;
- The auditor and the actuary of a fund; and
- The proposal in the case of underfunding.

Financial Services Board
Rigel Park,
446 Rigel Avenue South,
Erasmusrand,
Pretoria,
South Africa
Tel.: (+27) 12 428 8000
Fax: (+27) 12 347 0221
Internet: http://www.fsb.co.za

Tunisia

Exchange rate: USD 1.00 equals 1.21 dinars (TND).

Regulatory Framework

1997: Decree of the Minister of Social Affairs of 27 January 1997; modifies the decree of 1978 with regard to the regulations governing survivor pensions.

1989: Law 89-114; regulates the tax treatment of contributions and benefits.

1978: Decree of the Minister of Social Affairs of 18 November 1978; introduces the private-sector complementary pension plan and includes rules concerning administration, contributions and benefits.

Plan Profile

Plan sponsors

The state has established a complementary pension plan which private-sector employers may join on a voluntary basis.

Employers who join this private-sector complementary pension plan must affiliate all eligible employees to the plan.

Types of plans

Complementary pension plan: The complementary pension plan for the private sector can be joined by all employers willing to affiliate their employees to the plan. Employees cannot become members of the plan if their employer has not joined.

The plan provides old-age, survivor and disability benefits and is financed on a pay-as-you-go basis.

In order to join the plan, employers must submit the following documents and information to the National Social Security Fund:

- An application to join the plan;
- The list of covered employees to be affiliated and their annual salaries.

All covered employees must then be affiliated to the plan.

Institutional Framework

Complementary pension plan: The contribution and benefit administration is managed by the National Social Security Fund which is supervised by the Ministry of Social Affairs and Solidarity.

The management committee of the National Social Security Fund has the power to determine:

- The contribution rate;
- The reference salary and the value of a pension point;
- The administrative fee that is deducted from contributions;
- The minimum contribution (see section Preservation, portability, transferability).

The management committee of the National Social Security Fund consists of representatives of the government, employers and employees.

Coverage

Complementary pension plan: The plan covers private-sector employees with salaries above the ceiling of six times the minimum wage. The minimum wage equals TND 209.8 a month as of 1 September 2005.

Once employers decide to join the plan, they must affiliate all eligible employees and discrimination in coverage with regard to sex, age or working hours is prohibited.

Public-sector employees and civil servants are not covered by the private-sector complementary pension plan. Nor are self-employed persons allowed to join the plan and must make their own personal provisions for retirement.

Financing / Investment

Sources of funds

Complementary pension plan: The total contribution rate varies with the financial requirements of the plan. It was fixed at 4.5% when the plan started and is now 9% of the part of the monthly salary exceeding six times the minimum wage.

Another contribution rate that is used for calculating benefits (see section Benefit Structure / Formula) and for restricting the use of the contingency reserve (see section Protection of rights, Financial and Technical Requirements / Reporting) is mentioned in the legislation. This hypothetical contribution rate, which is not used for calculating actual contributions, is known as the contractual contribution rate and equals 18% of the contributory salary.

Employee contributions

Complementary pension plan: Employees contribute 3% of the part of the monthly salary exceeding six times the minimum wage (one-third of total contributions). The minimum wage equals TND 209.8 a month as of 1 September 2005.

Employees may pay additional voluntary contributions to buy rights for periods during which they were not covered by the plan.

Employer contributions

Complementary pension plan: Employers contribute 6% of the monthly salary exceeding six times the minimum wage (two-thirds of total contributions). The minimum wage equals TND 209.8 a month as of 1 September 2005.

Other sources of funds

Complementary pension plan: Other sources of funds include increases in contributions that are applied in the case of late contribution payment and so-called consolidation and withdrawal fees payable by employers upon leaving the plan (see sections Vesting Rules and Protection of Rights and Winding up / Merger and Acquisition).

Methods of financing

Complementary pension plan: Current benefits are financed through current contributions on a pay-as-you-go basis.

Asset management

Complementary pension plan: Not applicable as benefits are financed on a pay-as-you-go basis.

The contingency reserve (see section Protection of Rights, Financial and Technical Requirements / Reporting) is invested in short-term government bonds, equities and real estate.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Complementary pension plan: Employees must be affiliated immediately if their employer has joined the plan and their salaries are above six times the minimum wage. The minimum wage equals TND 209.8 a month as of 1 September 2005.

Vesting rules

Complementary pension plan: The concept of vesting does not apply.

If an employer withdraws from the plan, all pension rights resulting from contributions of this employer are cancelled. The rights accrued by means of employee contributions made during the employment relationship with this particular employer are only secured if the employer had joined the plan for a period exceeding 5 years. This also applies to retirees.

The management committee of the National Social Security Fund may, however, decide that the rights are secured if the employer, on a voluntary basis, pays a so-called consolidation fee (see section Protection of Rights, Winding up / Merger and Acquisition). If an employer withdraws from the plan due to ceasing its business activities, the consolidation fee must be paid and the rights are secured.

Preservation, portability, transferability

Complementary pension plan: Pension rights are fully portable if members terminate employment before retirement and move to an employer that has also joined the complementary pension plan.

Accrued rights are transformed into deferred rights where:

- A member changes employment and the new employer has not joined the plan;
- A member's salary is under the ceiling of six times the minimum wage for at least two consecutive years (see below).

In order to avoid that employees with varying salary levels lose their membership rights, a fixed monthly minimum contribution may be paid if the salary falls below six times the minimum wage (the minimum wage equals TND 209.8 a month as of 1 September 2005. Employees are, however, not covered anymore if their salary is below the ceiling for two consecutive years.

Retirement benefits

Benefit qualifying conditions

Complementary pension plan: The minimum retirement age is 60 for both men and women (same as under the social security scheme) with at least 5 years of contributions required to be eligible for old-age benefits.

Early retirement is allowed from age 55 if a member worked under adverse working conditions and age 50 if a member was dismissed for economic reasons or terminated employment due to a decline in physical capacities or is a female employee with three or more living children.

Deferred retirement is allowed. While pension rights continue to accrue, no increments are paid.

The former employer must certify that the retiree terminated employment. The pension is suspended if the retiree commences any remunerated employment for which contributions must be paid to the social security scheme.

Benefit structure / formula

Complementary pension plan: Defined benefit.

The old-age pension equals the total number of pension points earned over the entire career multiplied by the value of a pension point.

The number of pension points accumulated during any one year of coverage is obtained by dividing a hypothetical contribution calculated on a contribution rate of 18% of the member's contributory salary (the so-called contractual contribution rate) by a reference salary that is fixed annually by the management committee of the National Social Security Fund.

The pension point value is fixed yearly by the management committee of the National Social Security Fund in line with the development of the reference salary. The value must not be increased in a year during which the expected total expenses exceed 75% of the total contributions if at the same time the contingency reserve is below its required minimum (see section Protection of Rights, Financial and Technical Requirements / Reporting). The pension point value is TND 0.341 since 1 July 2004.

A lump sum instead of a pension is payable if the number of pension points accrued by a member is lower than 100. This lump sum equals the number of pension points multiplied by the reference salary in the year before retirement.

For each year of early retirement before age 60, the pension is reduced by 2%.

The benefit is suspended if the retiree is convicted of having abandoned his family. In this case a pension equal to 80% of the benefit the retiree would receive is paid to the abandoned wife and children.

Benefit adjustment

Complementary pension plan: Benefit adjustments are made by means of the annual adjustment in the pension point value. The old-age pension is recalculated based on the changed pension point value.

Survivors

Complementary pension plan: Survivor benefits are paid if the deceased member has at least 5 years of contributions or was an old-age or disability pensioner.

The spouse's pension is equal to 50% of the deceased member's old-age or disability pension paid or payable. If a deceased member had more than one wife at the time of his death, the pension is divided equally among all wives.

The spouse's pension is suspended in the case of remarriage before age 55. If the new partner also dies and the spouse is eligible for a second survivor pension, only the higher of the two survivor pensions is paid.

A lump sum instead of a pension is payable if the number of pension points accrued by the deceased member is lower than 100. The lump sum equals the number of pension points multiplied by the reference salary in the year before death.

Every orphan up to age 16 (21 if in education, 25 if in higher education, no age limit for unmarried daughters with no income or if disabled) receives a pension that amounts to 20% of the deceased member's old-age or disability pension paid or payable. This rate is increased to 30% if both parents are dead.

The sum of all survivor pensions must not exceed the old-age or disability pension paid or payable. If the survivor pensions would exceed this limit, the orphans' pensions are reduced proportionally as necessary.

Disability

Complementary pension plan: A disability benefit is paid if a member has at least 5 years of contributions and is deemed disabled according to legally established criteria. The benefit equals the accrued old-age pension (i.e. accrued pension points multiplied by the pension point value at the onset of disability).

A lump sum instead of a pension is payable if the number of pension points accrued by the disabled member is lower than 100. The lump sum equals the number of pension points multiplied by the reference salary in the year before the onset of disability.

Protection of Rights

Protection of Assets

Complementary pension plan: Not applicable.

Financial and Technical Requirements / Reporting

Complementary pension plan: A contingency reserve must be established funded by any excess resources in a financial period (contribution income exceeding benefits due). The reserve is aimed at reducing the impact of variations in the income and expenditure on the value of benefits. The reserve may only be used if it exceeds the value of 3 years of contribution revenue (based on the contractual contribution rate of 18%).

Whistleblowing

Complementary pension plan: Not applicable.

Standards for service providers

Complementary pension plan: Not applicable.

Fees

Complementary pension plan: The management committee of the National Social Security Fund determines the administrative fee deducted from contributions.

Winding up / Merger and acquisition

Complementary pension plan: Employers may only withdraw from the plan if two-thirds of all members (legally defined for this purpose as contributing employees and old-age pensioners) individually agree to the withdrawal. Moreover, the employer must pay a so-called withdrawal fee.

If an employer withdraws from the plan, all pension rights resulting from contributions of this employer are cancelled. All pension rights resulting from

employee contributions paid during the employment relationship with this particular employer are cancelled if the employer had joined for less than 5 years. This also applies to retirees.

The management committee of the National Social Security Fund may, however, decide that the rights are secured if the employer, on a voluntary basis, pays a so-called consolidation fee in addition to the withdrawal fee.

If a sponsoring employer goes out of business, the rights must be secured by the employer through paying the consolidation fee and are, by means of this payment, transformed into deferred rights.

Bankruptcy: Insolvency Insurance / Compensation Fund

Complementary pension plan: Not applicable.

Disclosure of information / Individual action

Complementary pension plan: No legal rules.

Other measures

Complementary pension plan: If employers do not pay contributions as required, the total contribution is increased by 3/1000 every day in the first 90 days of delayed payment and 0.5/1000 every day thereafter. The increased contribution does not increase benefits and can be waived if this is in the general interest.

Tax Treatment

Taxation of employee contributions

Complementary pension plan: Tax-deductible.

Taxation of employer contributions

Complementary pension plan: Tax-deductible.

Employer contributions are not considered as taxable fringe benefits for employees.

Taxation of investment income

Complementary pension plan: Not applicable as financed on a pay-as-you-go basis without reserves.

Taxation of benefits

Complementary pension plan: Taxed.

The lump sum payable instead of a pension if the number of pension points is lower than 100 (see section Benefit Structure / Formula) is tax-exempt.

Regulatory and Supervisory Authorities

National Social Security Fund: Administers the private-sector complementary pension plan and supervises that contributions are paid when they are due.

Caisse Nationale de Sécurité Sociale
49, Avenue Taieb M'HIRI
1002 Tunis-Belvédère
Tunisia
Tel.: (+216) 71 849 833
Fax: (+216) 71 783 641
Internet: www.cnss.nat.tn

Ministry of Social Affairs, Solidarity and Tunisians Abroad: Supervises the National Social Security Fund and is the regulatory authority.

Ministry of Social Affairs, Solidarity and Tunisians Abroad
25, Bld Bab Benat
1006 Tunis - La Kasbah
Tunisia
Tel.: (+216) 71 567 502
Fax: (+216) 71 568 722
Internet: www.ministeres.tn

Zambia

Exchange rate: USD 1.00 equals
4,675 kwacha (ZMK).

Regulatory Framework

1996: Pension Scheme Regulation Act No. 28; provides for the prudential regulation and supervision of occupational pension plans and requires all plans to be registered with the Registrar of Pensions and Insurance as well as to undergo regular actuarial valuation and financial auditing.

1968: Fourth Schedule of the Income Tax Act; defines requirements concerning coverage, contributions, and benefits that occupational pension plans must fulfil in order to be granted favourable tax treatment.

Plan Profile

Plan sponsors

A single employer or group of employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

Collective bargaining is usually part of the process of establishing a plan.

The establishment of pension schemes is the prerogative of the Registrar of Pensions and Insurance on application by a single employer or group of employers.

Types of plans

Registered plans: In order to establish a complementary occupational pension plan, employers must apply to the Registrar of Pensions and Insurance for authorization and registration of the plan. The registration is valid for a period of 3 years and is renewable thereafter.

In order for a plan to be registered, the Registrar must be satisfied that the rights of members will be reasonably protected and that the sponsoring employer(s) will be able to meet their obligations under the plan.

Pension plans must be established under a trust with plan assets held in the trust pension fund.

Participation in a plan may, subject to plan rules, be voluntary or can be made a condition of employment.

Plan rules may allow employees to pay additional voluntary contributions.

Approved registered plans: The trustees of a pension plan may apply to the Commissioner General of the Zambia Revenue Authority for tax approval of the plan. For tax approval to be granted, a pension plan must be established in relation to a business carried out wholly or partially in the Republic of Zambia and fulfil certain requirements with regard to coverage, contributions, benefit qualifying conditions, and benefit structure.

Tax approval is granted for a period of 1 tax year, but is deemed to continue for each subsequent tax year unless changes to the plan rules have occurred. The trustees must notify the Commissioner General of the Zambia Revenue Authority in writing of changes to the plan rules. If they fail to do so, the tax approval of the plan is deemed to have been withdrawn from the effective date of the amendment.

Plan rules may allow employees to pay additional voluntary contributions.

As virtually all occupational pension plans are approved registered plans, only these type of plans are covered in the following sections.

Institutional Framework

Approved registered plans: Plans must be established under a trust that must be a legal entity separate from the sponsoring employer(s). Plan assets must be held in a pension fund that is vested in the trustees.

Multi-employer plans must be established under multi-employer trusts and single-employer plans may either be established under single-employer trusts or

be affiliated to a multi-employer trust.

There are no legal requirements concerning who can be a trustee or how many member or beneficiary trustees there should be.

The trustees must contract the management of the contribution and benefit administration to a management company. Banks, insurance companies, and financial services companies may be management companies provided that they are registered with the Registrar of Pensions and Insurance.

Coverage

Approved registered plans: Private- and public-sector employees. Public-sector employees such as civil servants, military and police personnel etc. are covered under a statutory fund, the Public Service Pension Fund. Local government and utility (water, electricity etc.) employees are covered under another statutory fund, the Local authorities Superannuation Fund. Both were established prior to 1964 and are defined benefit plans.

Membership must not be restricted on the basis of race, creed, age, or gender and must not be subject to the discretion of the sponsoring employer(s) or the trustees. A minimum age limit (typically age 16) for joining a plan may be applied.

Financing / Investment

Sources of funds

Employee contributions

Approved registered plans: Plans may be contributory or noncontributory. Employee contribution rates and contributory salary must be clearly specified in the plan rules and must not be subject to the discretion of the sponsoring employer(s) or the trustees.

Employees usually pay 1/3 of the total contribution. In practice, almost all plans are contributory and require employees to contribute between 5% and 10% of salary. Most plans stipulate an employee contribution rate of 5% of salary.

Employer contributions

Approved registered plans: Employers are required to contribute.

Employer contributions are usually double the rate of employee contributions and are usually between 10% and 20% of salary. Employers sponsoring defined benefit plans sometimes do not contribute at a fixed rate but pay whatever is necessary in addition to the employee contributions to ensure that liabilities are properly funded.

Other sources of funds

Approved registered plans: None.

Methods of financing

Approved registered plans: Funded.

Asset management

Approved registered plans: Trustees must contract the asset management to an asset manager that can be the company managing the contribution and benefit administration or another bank, insurance company, or financial services company registered with the Registrar of Pensions and Insurance.

The investment instruments in which assets may be invested must be approved by the Registrar. The composition of the investment portfolio is determined by the Trustees. Assets may be invested in:

- Bonds;
- Treasury bills;
- Equity;
- Property;
- Cash deposits.

The Ministry of Finance may issue maximum percentage limits for investment in different instruments approved by the Registrar. No such regulations have yet been issued.

However, of total assets invested, a maximum of 30% may be invested abroad.

No unsecured loans can be made to the sponsoring

employer(s) by the pension plan. Secured loans to the sponsoring employer(s) must not exceed a maximum of 5%.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Approved registered plans: No legal rules.

The waiting period depends on plan rules and is usually equal to the probationary employment period (3 or 6 months).

Plans usually define a minimum age limit (typically age 16) for joining a plan.

Vesting rules

Approved registered plans: Employee and employer contributions vest immediately.

The plan member can withdraw both employee and employer contributions with accrued interest, subject to certain tax treatments and as long as the member is no longer working for the sponsoring employer.

Preservation, portability, transferability

Approved registered plans: Upon termination of employment before retirement, employees must be allowed to transfer their rights to the plan of a new employer that must accept the transfer-in. A transfer value must be calculated for this purpose that equals:

- The total employer and employee contributions, plus interest, in the case of defined contribution plans;
- The present value of accrued benefits in the case of defined benefit plans.

Plan rules may also allow members to receive a refund of their own contributions, plus interest, and to transfer the rights accumulated by means of employer contributions or to opt for a deferred pension accumulated by means of employee and/or employer contributions. In the former case, reasonable interest must be granted.

Retirement benefits

Benefit qualifying conditions

Approved registered plans: Tax rules require that the retirement age must generally not be lower than age 55 and that employees must retire from employment with the sponsoring employer in order to receive benefits. A benefit is payable before retirement age if the member withdraws from the fund or is discharged from employment on medical grounds.

The Commissioner General of the Zambia Revenue Authority may authorize that a plan provides for early retirement from age 45, based on the nature of the work carried out by an employee (e.g. employees in the mining sector).

Benefit structure / formula

Approved registered plans: Defined benefit or defined contribution. Most large plans are defined benefit and most small plans are defined contribution. Many schemes are moving away from defined benefits toward defined contribution arrangements.

Benefits must usually be paid as a periodic pension for life. However, the greater of ZMK 5 million or 50% of the cash value of the pension rights may be received as a lump sum. (Payments made on the basis of an annuity remain uncommon.)

Benefits must not be subject to the discretion of the sponsoring employer(s) or the trustees and the same benefit formula must be applied to all members.

The plans are not integrated with the Social Security Scheme and are independent of the National Pension Scheme arrangement.

Benefit adjustment

Approved registered plans: No legal rules.

Some plans increase benefits in payment if the financial situation of the plan so permits. The decision on benefit adjustments is made jointly by the sponsoring employer(s) and the trustees.

Survivors

Approved registered plans: Plans may provide a

pension or a lump-sum benefit to dependents of the deceased member.

The benefit structure depends on plan rules. Pensions are usually paid to a spouse for life and until age 21 or age 25 for orphans. The spouse's pension ceases on remarriage.

The total benefit payable to eligible survivors must not exceed the benefit paid or payable to the deceased member.

Disability

Approved registered plans: In the case of a medically certified disability, the member may be paid an early old-age pension payable for life; in the case of severe disability, the member may commute the pension in full to a lump sum. The amount of the pension is usually set in the plan rules, but if not, it may be actuarially determined.

There are no lower age limits for disabled members to take an early old-age pension.

Protection of Rights

Protection of Assets

Approved registered plans: Assets must be held in a trust pension fund separate from the sponsoring employer(s). The trustees or manager of the pension plan must take out liability insurance against dishonesty or fraud among directors, officers, or employees directly handling the plan.

Financial and Technical Requirements / Reporting

Approved registered plans: The management company (see section Institutional Framework) must appoint an auditor to the plan and must, after the end of each financial year, prepare audited financial statements and audited statements of the administrative costs. A copy of the financial statements and the auditor's report must be submitted to the Registrar of Pensions and Insurance within 3 months of the end of each financial year.

The management company must also appoint an actuary to carry out actuarial valuations of the pension plan and to examine its funding level at least every 2 years during the first 5 years after the plan's registration and every 5 years thereafter. The actuary must after each valuation prepare a report that must be submitted to the Registrar and the Minister of Finance.

The actuary must, if necessary, make recommendations for better financial management and point out any action that needs to be taken by the management company. The Registrar must supervise the implementation of the actuary's recommendations.

Management companies must submit information quarterly to the Registrar on the investment of plan assets. In addition, they must inform the Registrar of any events that may negatively affect the security of members' rights under the plan and must report if contributions by employers and/or employees are in arrears.

If a plan is found not to be in a financially sound position, the Registrar may specify necessary measures to be taken and appoint a curator to advise the management company on the implementation of such measures. The curator must notify the Registrar within 6 months of appointment whether a financially sound situation can be restored or whether the plan should be deregistered.

Whistleblowing

Approved registered plans: A fund manager or trustee must report to the regulatory authority if contributions are more than a month late. Equally, the scheme's auditors and actuary must report any salient features that may affect fund performance.

Standards for service providers

Approved registered plans: Auditors must be members in good standing of a professional association of accountants in Zambia under the Accountants Act.

Actuaries must have qualifications at least equivalent to those of an associate or fellow of the Institute

of Actuaries of England and must have sufficient experience to carry out the required tasks. Actuaries must be financially independent from the trustees, management company, and sponsoring employer(s).

Fees

Approved registered plans: No legal rules.

Winding up / Merger and acquisition

Approved registered plans: The Registrar may deregister a plan upon recommendation of the curator (see section Financial and Technical Requirements/ Reporting) or if the plan is not administered in compliance with legal requirements. Deregistered plans must be wound up.

If a plan is being wound up and the plan assets are not sufficient for the full discharge of the obligations to members, the Registrar may establish a claim satisfaction hierarchy and allocate the assets accordingly. The available assets for contributing members of the pension plan must be used to buy deferred annuities from an insurance company payable from retirement age or be transferred to the registered plans of other employers. Members may request a refund of their own contributions before the purchase or transfer is done. The available assets for pensioners must be used to buy immediately payable annuities.

Bankruptcy: Insolvency Insurance / Compensation Fund

Approved registered plans: The management company must, in consultation with the plan actuary and auditor, contract an insurance policy with a recognized insurance company against negligence or dishonesty of officers involved in the management of the plan. A copy of the insurance policy must be submitted to the Registrar. There is no compensation fund (except for the liability insurance against employee fraud).

Disclosure of information / Individual action

Approved registered plans: Plan members must be provided with a yearly benefit statement outlining the accumulated capital in the case of defined contribution plans and the cash value of accrued pension rights in the case of defined benefit plans.

Members may lodge complaints with the Registrar about actions of institutions involved in the operation of the plan and may take individual civil or criminal action against a manager or governing body of the plan.

Other measures

Approved registered plans: None.

Tax Treatment

Taxation of employee contributions

Approved registered plans: Tax-deductible up to a certain limit.

Taxation of employer contributions

Approved registered plans: Tax-deductible up to a certain limit.

Taxation of investment income

Approved registered plans: Taxed at withholding tax rates and any other applicable rates, depending on the nature of the investment.

Taxation of benefits

Approved registered plans: Tax-exempt.

Regulatory and Supervisory Authorities

Pensions and Insurance Authority: Supervises, under the direction of the Registrar of Pensions and Insurance, trusts, insurance companies, management companies and asset managers, and ensures that pension plans are administered in compliance with legal requirements and plan rules. Its tasks are especially to:

- Protect the rights of plan members;

- Monitor the financial viability of pension plans and ensure that their administration is in compliance with sound financial and actuarial principles and legal requirements.

In order to fulfil its tasks, the Authority, among other things:

- Registers and deregisters pension plans;
- Ensures that auditors and actuaries are appointed in accordance with legal requirements;
- Examines the annual accounts submitted by supervised entities and the related auditors' reports.

The supervisory authority is independent from other supervisors in the financial and capital markets and is dependent on the state for financing its operations.

The Registrar may make on-site examinations of books and accounts of pension plans and/or may direct supervised entities to refrain from, or carry out, certain actions if:

- Reasonable cause exists to believe that supervised entities are contravening legal requirements;
- The recommendations made by an actuary have not been carried out;
- The Registrar has received a complaint from a member.

The Registrar can impose sanctions on erring players in the market.

The Registrar of Pensions and Insurance is appointed by the Minister of Finance in consultation with the Minister of Labour and Social Security.

Pensions and Insurance Authority
Registrar of Pensions and Insurance,
Corner John Mbita and Nationalists Roads,
Private Bag RW 30X,
Lusaka,
Zambia
Tel.: (+260) 1 255 505
Fax: (+260) 1 255 503
Internet: http://www.pia.org.zm

Zambia Revenue Authority: Responsible, under the direction of the Commissioner General, for tax approval of occupational pension plans.

Zambia Revenue Authority
2nd Floor Revenue House,
Private Bag W136,
Lusaka,
Zambia
Tel.: (+260) 1 226 227
Fax: (+260) 1 222 717
Internet: http://www.zra.org.zm

Zimbabwe

Exchange rate: USD 1.00 equals
6,200 Zimbabwean dollars (ZWD).

Regulatory Framework

2000: Insurance and Pensions Commission Act (not yet fully implemented); provides for the establishment of the Insurance and Pensions Commission to supervise insurance companies and pension and provident funds.

1996: Pension and Provident Funds Act (Revised); provides for the interpretation and appointment of the Registrar, pension plan registration, management and administration, and financial requirements.

1991: Pension and Provident Funds Regulations; provides for the administration of pension and provident funds, benefit structure and protection of rights, and prohibits discrimination based on various criteria.

1976: Pension and Provident Funds Act (Revised); provides for the establishment of pension and provident plans and requires them to be implemented through the establishment of pension and provident funds respectively.

Plan Profile

Plan sponsors

A single employer or group of employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

Plans established by a group of employers are known as umbrella group plans.

Plans may be established through a decision by the sponsoring employer(s) or a collective bargaining agreement.

Types of plans

Pension plans: Employers may establish pension plans that may be defined benefit or defined contribution and provide a pension at retirement.

Provident plans: Employers may establish provident plans that are defined contribution and provide a lump sum at retirement. (Such plans are not encouraged.)

All plans: Pension and provident plans must be implemented through the establishment of pension and provident funds respectively, which must be registered with the Registrar of pension and provident funds.

The following documents must be attached to the application for registration of the fund:

- A copy of the fund rules;
- A report and a certificate from an actuary setting out the method of financing benefits, the interest rate used in the calculations, how benefit adjustments are taken account of, and whether the contribution rate is expected to be stable, increasing, or fluctuating;
- A list of the sponsoring employers (in the case of funds implementing umbrella group plans).

Upon the establishment of a new, or the amendment of an existing plan, existing employees who are not yet members may elect to join the plan within 12 months of its establishment or amendment. For newly hired employees, joining an existing plan is a condition of employment. Plan members must not withdraw from membership while employed by the sponsoring employer.

Employer contributions are not limited but should be at least equal to those of the employee.

Employees may make additional voluntary contributions of up to a maximum overall contribution of 10% of salary, but these need not be matched by the employer.

Institutional Framework

All plans: Pension and provident funds are independent legal entities and must be governed by a

board of trustees. At least one-half of the members of the board of trustees must be elected or appointed by plan members, the remainder must be appointed by the sponsoring employer(s). In the case of umbrella group plans, each sponsoring employer appoints one employer trustee.

The board of trustees may manage the contribution and benefit administration in-house (self-administered funds) or contract it to an insurance company registered with the Commissioner of Insurance.

A principal officer must be appointed to manage the daily administration of the fund. In the case of a fund implementing a plan that is based on a collective agreement, the principal officer must be an employee of the industrial council concerned. However, if the fund is administered by an insurance company, the principal officer must be an employee of this company. The principal officer must attend all meetings of the board of trustees.

There are no minimum capital requirements for pension and provident funds, but minimum requirements apply to insurance companies.

Coverage

All plans: Private- and public-sector employees.

Plans must not discriminate on the basis of sex, salary, wage, rank, seniority, or occupation. Employers must not establish more than one plan for their employees unless approved by the Registrar in order to prevent discrimination through different benefit structures and eligibility conditions. The benefit formula must generally be the same for all members. However, subject to the approval of the Registrar, different accrual rates may apply to members in hazardous occupations or if such differences can be justified on actuarial grounds.

The plan rules must not include provisions that render admission to membership or benefit eligibility subject to any discretionary power. Membership must be granted to eligible employees between ages 16 and 70.

Financing / Investment

Sources of funds

Employee contributions

All plans: Plans must be contributory (if a plan was noncontributory before the 1991 Pension and Provident Funds Regulations took effect, it must convert into a contributory plan for all new members).

Contributions must be specified in the plan rules as a percentage of salary including any regular commission or bonus and any other allowances. Members whose salary is reduced may elect to contribute at an increased rate to ensure the same contribution level as before the salary reduction.

Employees usually contribute around 6% of salary. Plan rules do not limit contributions. Contribution limits are based on an agreement between the employer and employees.

Employer contributions

All plans: Employer contributions are compulsory and must be specified in the plan rules which must not limit them directly or indirectly to any amount as may be allowed as a tax-deduction.

Employer contributions should be at least equal to those of the employee.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Asset management

All plans: The board of trustees may manage the assets in-house or contract the asset management to an insurance company registered with the Commissioner of Insurance. If the contribution and benefit administration is managed by an insurance company, this company will usually also manage the assets.

Of total assets invested, a minimum of 45% must be in prescribed government bonds.

There is no limit to the level of management fees or administrative costs.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: The waiting period is agreed between the employer and the Board of Trustees. Plan rules may provide for a maximum waiting period of 3 months.

Minimum and maximum age limits for membership are age 16 and age 70 respectively.

Vesting rules

All plans: Employee contributions vest immediately.

The vesting of employer contributions is gradual and starts with 25% of employer contributions after 5 years of membership; 50% after 10 years and 100% after 15 years of membership.

Upon termination of employment before the vesting of employer contributions starts, members are entitled to a refund of their own contributions plus interest equal to the rate of return of the fund.

Preservation, portability, transferability

All plans: Upon termination of employment before retirement, a member may continue to contribute to the same plan if the new employer participates in the same umbrella group plan.

Upon termination of employment before retirement and if not covered by the same umbrella group plan, a member's accrued rights or accumulated capital must either be preserved or transferred to another plan or the member may opt to receive his or her contributions plus interest earned less tax; the employer's portion is preserved until the member reaches at least age 55 or dies, whichever is earlier. Fund rules must provide for transfers-in. Preserved rights must earn interest at the same rate as the fund.

Retirement benefits

Benefit qualifying conditions

All plans: The benefit eligibility age must be defined in the plan rules and may be between ages 55 and 70 (men and women). Plan rules may provide for early retirement (usually not before age 55) or deferred retirement (usually no later than age 70). Termination of employment must not be made a condition of benefit eligibility.

If members are made redundant and do not find new employment within 2 years, plan rules may permit the payment of early retirement benefits even if the member is younger than age 55. Early retirement before age 55 is also permitted if medical evidence of the member's permanently incapability to perform their former type of employment is submitted to the fund.

Benefit structure / formula

Pension plans: Defined benefit or defined contribution.

Pension plans are usually defined benefit. The plan rules must specify the benefit structure. The benefit formula must generally be the same for all members. However, subject to the approval of the Registrar, different accrual rates may apply to members in hazardous occupations or if such differences can be justified on actuarial grounds.

Plans are not integrated with the social security scheme.

A pension of less than ZWD 5,000 a month, and up to one-third of the pension entitlement exceeding ZWD 5,000 a month, may be commuted to a lump sum. The Registrar can authorize full commutation for members who intend to build or extend a house or pay mortgage loans.

Provident plans: Defined contribution.

The accumulated capital is paid as a lump sum.

Benefit adjustment

All plans: There is no upper limit to pension increases.

The board of trustees may increase pensions on a discretionary basis. These increases are subject to the approval of the Registrar for which to obtain the following documents and information must be submitted:

- The reasons for the proposed pension increase;
- A list of all pensioners, the amounts of their individual current pensions, the proposed increases, and the resulting pensions;
- A certificate from the fund's actuary or auditor estimating the total cost of the proposed increase and certifying the financial soundness of the proposed method of financing the increase.

Survivors

Pension plans: Plans may provide for a capital sum to be paid after the death of a contributing or retired member.

A part of the capital sum not exceeding the greater of twice the contributory salary of the member in the 12 months before retirement or death and one-third of the capital sum may be paid as a lump sum to eligible survivors.

The rest of the capital sum must be used to buy a lifetime annuity for the surviving spouse and annuities for a defined period for the orphans (at least until age 18) or other dependents.

Eligible survivors are the surviving spouse and children; in the absence of a surviving spouse and children, eligible survivors are (in order of priority) dependents, named survivors, or the deceased's estate.

Provident plans: Survivors receive the accumulated capital of the deceased member as a lump sum.

Eligible survivors are the surviving spouse and children; in the absence of a surviving spouse and children, eligible survivors are (in order of priority) dependents, named survivors, or the deceased's estate.

Disability

All plans: Plans may provide for early old-age benefits before age 55 if medical evidence of a member's permanently incapability to perform the former type of employment is submitted to the fund.

Protection of Rights

Protection of Assets

All plans: Pension or provident funds are independent legal entities that hold assets separate from the assets of the sponsoring employer(s).

There is provision for the actuarial valuation of assets every 3 years.

Investment is permitted in prescribed assets only.

Financial and Technical Requirements / Reporting

All plans: Self-administered funds (see section Institutional Framework) must submit annual financial statements consisting of income and expenditure accounts, a balance sheet, a statement of assets, and a list of the names of sponsoring employer(s) to the Registrar of pension and provident funds.

Insurance companies must, for each fund that they administer, submit annual financial statements consisting of income and expenditure accounts, a balance sheet, and a statement of assets to the Registrar. In addition, insurance companies must submit information on all new funds administered by them with a list of all sponsoring employer(s) for each fund.

All financial statements must be accompanied by a report signed by an auditor.

Monthly information on the asset allocation must be submitted to the Registrar.

An actuarial examination must be conducted at least once every 3 years but a fund must keep such records as are necessary to enable an actuary to carry out an examination at any time.

If the actuary concludes after the examination that the fund is in an unsound financial position, the actuary and the board of trustees must jointly consider methods through which a sound financial position can be restored. Generally, the sponsoring employer(s) must make up the unfunded liability immediately or according to a funding plan recommended by the

actuary and approved by the Registrar.

Whistleblowing

All plans: The chairman of the board of trustees, other trustees and the principal officer must notify the Registrar if a sponsoring employer fails to make the contributions specified in the plan.

Standards for service providers

All plans: Auditors of pension and provident funds must be fellow members of the Institute of Chartered Accountants of Zimbabwe or of an institution approved by the Registrar.

Actuaries must be fellow members of the Institute of Actuaries of London, Scotland, or America, or such other actuaries' society, institute, faculty, or organization as approved by the Registrar.

Auditors and actuaries must be independent of the sponsoring employer.

Fees

All plans: No legal limits. The supervisory authority is not legally required to limit fees.

Winding up / Merger and acquisition

All plans: Winding-up procedures must be specified in the fund rules. When a fund is wound-up, a liquidator may be appointed.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: The fund rules must protect the assets against dishonesty on the part of any of its officers through a guarantee from the sponsoring employer(s) or insurance of such amount as the principal officer deems adequate. The principal officer and the board of trustees are responsible for the proper management of the plan..

Disclosure of information / Individual action

All plans: The sponsoring employer is required to disclose information (benefit statement, financial statements, fees etc) to members and beneficiaries.

The fund rules must include procedures for settling disputes between the fund management and members. The principal officer must inform the Registrar in writing of all disputes taking place.

Members can take legal action against plan managers if they fail in their duties.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: The total tax-deductible employee and employer contribution is ZWD 1,000,000 a year.

Taxation of employer contributions

All plans: The total tax-deductible employee and employer contribution is ZWD 1,000,000 a year.

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

Pension plans: Pension benefits are taxed as income.

Lump-sum benefits resulting from commutation of pensions are tax-exempt up to the limit of the greater of one-third of the cash value of the pension right and ZWD 1,000,000.

Provident plans: Tax-exempt.

Regulatory and Supervisory Authorities

Registrar of pension and provident funds: Supervises pension and provident funds and reports to the Board of Directors of the Insurance and Pensions Commission.

A Pensions Advisory Committee advises the

Registrar. The Committee comprises, among others, the associations of fund administrators, the Employers Confederation of Zimbabwe, and the Zimbabwe Congress of Trade Unions.

Commissioner of Insurance: Supervises insurance companies and reports to the Board of Directors of the Insurance and Pensions Commission.

The Life Advisory Committee and the Nonlife Advisory Committee advise the Commissioner of Insurance.

Commissioner of Insurance/Registrar of pension and provident funds
6th Floor, Block E,
New Government Complex,
P Bag 7705, Causeway,
Harare,
Zimbabwe
Tel.: (+263) 4 757 730
Fax: (+263) 4 757 734

Insurance and Pensions Commission: Registers and supervises insurance companies and pension and provident funds. The Insurance and Pensions Board controls and manages the operations of the Commission. The Commission is currently being implemented.

AMERICAS - Voluntary

Information valid at 01-07-2005

Brazil

Exchange rate: USD 1.00
equals 2.41 reais (BRL).

Regulatory Framework

2002: Resolution CMN 3,034; regulates the investment of open plan assets.

2001: Law 109; replaces Law 6,345 of 1977, provides for the establishment of closed and open pension plans, regulates the administration and operation of closed and open pension entities and introduces requirements concerning preservation and transferability.

2001: Resolutions of the Federal Reserve Bank 2,829 and 3,002; regulate the investment of closed plan assets.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis a complementary pension plan for their employees.

Trade unions, councils of self-employed persons and other associations may, on a voluntary basis, establish a complementary pension plan for their associates or members.

Open pension entities or life insurance companies (see sections Types of plans and Institutional framework) may establish pension plans and offer them to:

- Employers who may, on a voluntary basis, affiliate their employees to the plan;
- Individual employees, the self-employed and the nonemployed who may voluntarily join the plan on a personal basis.

Types of plans

Closed plans: Plan sponsors may establish closed pension plans the membership of which is restricted to the covered employees of the sponsoring employer(s) or association(s). Closed pension plans must be implemented through the establishment of closed pension entities.

Closed plans must have at least 100 members.

The establishment of a closed plan is subject to the approval of the Secretariat of Complementary Pensions (*Secretaria de Previdência Complementar* - SPC). All changes to plan rules must also be approved by the SPC.

Open plans: Employers, singly or as a group, may through a group contract affiliate their employees to an open pension plan established and offered by open pension entities or life insurance companies.

The establishment of an open plan is subject to the approval of the Insurance Superintendence (*Superintendencia de Seguros Privados* - SUSEP). All changes to plan rules must also be approved by the Insurance Superintendence.

All plans: All plans must regulate admission requirements, contributions and benefit structure.

Participation in the plan is voluntary for covered employees. The plan rules must be attached to the membership offer made to them.

Institutional Framework

Closed plans: Closed pension entities, which are nonprofit-making legal entities established for the sole purpose of implementing closed pension plans, manage the contribution and benefit administration.

The establishment of a closed pension entity is subject to the authorization of the Secretariat of Complementary Pensions (SPC).

Closed pension entities must be governed by a planning board, a supervisory board and an executive directorate. The members of these bodies must comply with certain requirements concerning fitness and propriety. The members of the executive directorate must have higher education.

At least one-third of the members of the planning and supervisory boards must be representatives of plan members.

Open plans: Open pension entities and life insurance companies manage the contribution and benefit administration.

Life insurance companies must obtain an authorization from the Insurance Superintendence (SUSEP) to establish and manage open pension plans.

Open pension entities must be established as stock corporations with the single business aim of establishing and managing open pension plans.

The establishment of an open pension entity is subject to the authorization of SUSEP.

The appointment of directors and members of the governing bodies of open pension entities and life insurance companies must be notified to SUSEP.

Coverage

All plans: Private- and public-sector employees with the exception of civil servants who are covered by a separate pension system.

There are no legal rules concerning discrimination. Most plans define maximum age and/or minimum service requirements for joining the plan. Most plans cover all full-time employees of the sponsoring employer(s).

Trade unions, councils of self-employed persons and other associations may establish closed pension plans for their associates or members.

Individual employees, the self-employed and the nonemployed may join an open pension plan on a personal basis.

Financing / Investment

Sources of funds

Employee contributions

All plans: No legal rules.

Defined contribution plans are usually contributory. The contribution rate depends on plan rules and is typically between 4% and 6% of the part of the salary below the social security ceiling and between 8% and 10% of the part of the salary above that ceiling.

Defined benefit plans are contributory and the contribution rate depends on plan rules.

Employer contributions

All plans: No legal rules.

The contribution rate under defined contribution plans depends on plan rules and is typically between 8% and 12% of the part of the salary below the social security ceiling and between 16% and 20% of the part of the salary above that ceiling.

The contribution rate under defined benefit plans depends on plan rules.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Closed plans: There is no funding requirement for disability and survivor benefits and they may be financed by the sponsoring employer(s) on a pay-as-you-go basis.

Asset management

Closed plans: The closed pension entity may manage the assets in-house or contract the asset management out to an asset manager (usually a bank). There is no requirement for asset managers to be authorized or licensed.

Of total assets invested:

- 100% may be in federal government bonds;
- A maximum of 80% may be in fixed-income low credit risk securities;
- A maximum of 20% (30% in the case of defined contribution plans) may be in fixed-income high credit risk securities;
- A maximum of 20% (30% in the case of defined

contribution plans) may be in state and local government bonds;
- A maximum of 20% may be in a single issuer;
- A maximum of 16% (decreasing to 8% by 2009) may be in property;
- A maximum of 10% may be in foreign investment funds;
- A maximum of 10% may be in foreign securities or currencies;
- A maximum of 4% may be in a single property;
- A maximum of 2% (decreasing to 0% by 2005) may be in land.

Limits for investment in equities issued by companies listed on the Brazilian stock market (*Bovespa*) differ depending on the degree of their compliance with good corporate governance standards defined by the stock market.

In addition, a maximum of 3% of total assets may be in Brazilian Depository Receipts or in equities issued by companies based in Mercosur countries.

Open plans: The open pension entity or life insurance company manages the assets in-house.

Of total assets invested:

- 100% may be in government bonds;
- A maximum of 80% may be in corporate bonds;
- A maximum of 49% may be in equity;
- A maximum of 12% (decreasing to 8% by 2007) may be in property.

Additional restrictions apply to ensure minimum diversification. Restrictions on investment in corporate bonds and/or equity issued by a single entity also exist.

All plans: A guaranteed real rate of return of usually 6% is provided under defined contribution plans.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Most plans define maximum age and/or minimum service requirements for joining the plan.

Vesting rules

All plans: No legal rules.

Vesting depends on plan rules. Most plans provide for vesting of employee and employer contributions after employees reach age 45 if they have at least 10 years of service with the sponsoring employer.

Upon termination of employment before contributions are vested, employees are entitled to a refund of their own contributions revalued according to the official inflation rate.

Preservation, portability, transferability

Closed plans: Upon termination of employment before retirement, members may choose between:

- Transferring the cash value of their accrued rights or accumulated capital to the plan of the new employer that must accept the transfer-in;
- Preserving their accrued rights or accumulated capital in the plan and receive a deferred pension from the plan at retirement age;
- Continuing accruing rights or accumulating capital in which case they must pay both employer and employee contributions;
- Receiving a withdrawal benefit equal to their own contributions.

The right to transfer the cash value of accrued rights or accumulated capital to the plan of the new employer is subject to a minimum membership requirement of 10 years in the case of plans existing prior to 30 May 2001 and 5 years in the case of plans established after that date.

There is no legal requirement to adjust preserved rights and this depends on plan rules.

Open plans: Upon termination of employment before retirement, members may choose between:

- Transferring the cash value of their accrued rights or accumulated capital to the plan of the new employer;
- Receiving a withdrawal benefit equal to their own and the vested employer contributions;
- Preserving their accrued rights or accumulated

capital in the plan if the plan rules provide for this option.

Retirement benefits

Benefit qualifying conditions

All plans: No legal rules.

The benefit qualifying conditions depend on plan rules. Most plans provide for a normal retirement age of 55 for both men and women.

Plans may require a minimum membership period as a condition for benefit eligibility.

Plans may provide for early and/or deferred retirement with actuarial reductions and/or increments.

Benefit structure / formula

All plans: No legal rules.

Defined benefit or defined contribution plans.

Most closed plans are defined benefit. Recently established closed plans, however, tend to be defined contribution. Open plans are usually defined contribution.

Defined benefit plans are usually integrated with social security benefits through benefit offset (i.e. the social security benefit is deducted from the occupational plan benefit). Pension rights usually accrue at a steady rate of between 1.5% and 2% per year of service, with a total benefit target (including social security benefits) of 45% to 70% of final salary after a maximum period of between 30 and 35 years. Final salary is usually defined as the average of the last 12 monthly salaries before retirement.

Defined contribution plans are not explicitly integrated, but most plans take account of the fact that social security benefits will be paid when determining the contribution rate.

Benefits may be paid as lump sums or pensions (regular income stream).

Benefit adjustment

All plans: Benefits must be adjusted annually in line with a price index defined in the plan rules.

Survivors

All plans: No legal rules.

Benefit qualifying conditions and benefit structure depend on plan rules. Most plans provide survivor benefits.

Closed plans: Most plans provide a benefit of 60% of the deceased member's projected or actual old-age benefit to the widow and orphans up to age 21.

Open plans: Some plans provide a lump-sum benefit to eligible survivors of 24 times the deceased member's monthly salary before death.

Disability

All plans: No legal rules.

Benefit qualifying conditions and benefit structure depend on plan rules. Most plans provide disability benefits.

Closed plans: Most plans provide a disability benefit of the disabled member's projected old-age pension calculated based on service projected to plan retirement age.

Open plans: Most plans provide a lump-sum disability benefit.

Protection of Rights

Protection of Assets

All plans: Pension entities and life insurance companies must hold plan assets separate from their own assets and the assets of the sponsoring employer(s).

Financial and Technical Requirements / Reporting

All plans: Pension entities and life insurance companies must have an actuarial valuation of each pension plan carried out by an actuary at least once a year.

Through the actuarial valuation, the actuary will check if the calculus assumptions of the technical

provisions are adequate, as per biometric tables and interest rates guaranteed in the plan. In the case of insufficient provisions, a complementary provision must be constituted.

The rate of return taken into account for actuarial calculations under defined benefit plans must not exceed 6% a year. Actual returns exceeding the rate approved in the plan, must be used to accumulate a provision that is periodically reverted to the participant.

Financial statements must be prepared for each pension entity (or company) on a biannual basis. Financial statements must be audited by an auditor who must submit them to the Secretariat of Complementary Pensions (SPC) in the case of closed plans and the Insurance Superintendence (SUSEP) in the case of open plans.

If a plan is underfunded, the responsible supervisory authority may appoint a supervising director to the pension entity or life insurance company for a fixed period to restore a sound financial position.

Closed plans: Closed pension entities must have a comprehensive actuarial audit of the pension plan carried out by an actuary at least every five years. The actuary's report must be submitted to the SPC.

Open plans: The actuarial evaluation report must also be published in a broad circulation newspaper with the financial statements of the relevant year.

Whistleblowing

All plans: No legal rules.

Standards for service providers

All plans: Auditors must be registered and be independent of the pension entity and the sponsoring employer(s).

Actuaries must be independent of the pension entity and the sponsoring employer(s) and registered with the Brazilian Institute of Actuaries.

Fees

Closed plans: No legal rules.

Open plans: The management fee must not exceed 10% in the case of defined contribution plans, and 30% in the case of defined benefit plans, of contributions.

Winding up / Merger and acquisition

All plans: The winding up of closed and open pension plans and entities is supervised by the Secretariat of Complementary Pensions (SPC) and the Insurance Superintendence (SUSEP) respectively.

The responsible supervisory authority can order the winding up of a pension entity in certain legally specified circumstances.

Beneficiaries and plan members have priority in the distribution of assets if a pension entity is being wound up.

Mergers or other transformations of pension entities are subject to the authorization of the responsible supervisory authority.

The winding up and transformation of life insurance companies is regulated by the applicable legislation.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There are no requirements to insure against financial loss and no compensation fund exists.

Pension entities may, on a voluntary basis, reinsure liabilities with an insurance company. The responsible supervisory authority may order reinsurance under certain circumstances.

Disclosure of information / Individual action

All plans: Members must be provided with certain information at least annually. The scope of the information that must be provided is defined by the responsible supervisory authority.

Members may complain to the responsible supervisory authority about actions of the closed or open pension entity or life insurance company. The supervisory authorities attempt to settle complaints by means of simplified administrative procedures.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: Tax-exempt up to a limit of 12% of salary.

Taxation of employer contributions

All plans: Tax-exempt up to a limit of 20% of salary.

Taxation of investment income

All plans: Taxed at a rate of 20%.

Taxation of benefits

All plans: Taxed as income. The income tax rate ranges between 15% and 27.5%.

Regulatory and Supervisory Authorities

Secretariat of Complementary Pensions (SPC): Authorizes and supervises closed pension plans and entities.

The Secretariat is part of the Ministry of Social Insurance.

Secretaria de Previdência Complementar
Esplanada dos Ministérios
Bloco F - 6 andar Gabinete
CEP 70059-900
Brasilia
Brazil
Tel.: (+55) 61 3317 5703
Fax.: (+55) 61 3224 6280
Internet: www.mps.gov.br

Insurance Superintendence (SUSEP): Authorizes and supervises open plans, open pension entities and life insurance companies. The Insurance Superintendence also oversees nonlife insurance companies and capitalization entities.

The Insurance Superintendent reports to the Minister of Finance.

Superintendência de Seguros Privados
Rua Buenos Aires n° 256- Centro
CEP 20061-000
Rio de Janeiro
Brazil
Tel.: (+55) 21 3806 9800
Internet: www.susep.gov.br

Secretariat of Complementary Pensions and Insurance Superintendence: Has with respect to supervised entities the powers to:

- Supervise their activities and give instructions necessary to protect the rights of plan members;
- Approve actuarial rules for defined benefit plans and control compliance with these rules;
- Establish rules for their administration;
- Order and/or supervise their winding up.

Supervised entities must provide officers of the responsible supervisory authority with free access to all books and technical notes. If the responsible supervisory authority believes that the rights of plan members are endangered, it may appoint a supervising director to the supervised entity for a fixed period. If the supervising director is unable to correct the deficiency, the supervisory authority may order that the entity be wound up. The law and regulations define certain offences and the corresponding sanctions that the responsible supervisory authority may impose.

Canada

Exchange rate: USD 1.00 equals 1.25 Canadian dollars (CAD).

Regulatory Framework

Complementary pensions are regulated by the following federal and provincial legislation:

1972: Income Tax Act (federal legislation, reformed in 1988, Information Circular 72-13R8).

1967: Pension Benefits Standards Act (federal legislation, amended in 1987, 1998 and 2002).

1993: Pension Benefits Standards Act (British Columbia, amended in 1999 and 2001).

1991: Pension Benefits Act (New Brunswick, amended in 1995 and 2000).

1985: Pension Benefits Act (Newfoundland, amended in 1997 and 2001).

1977: Pension Benefits Act (Nova Scotia, amended in 1988, 1993 and 2000).

1976: Pension Benefits Act (Manitoba, amended in 1984, 1997 and 2001).

1969: The Pension Benefits Act (Saskatchewan, amended in 1992, 1993, 1997 and 2001).

1967: Employment Pension Plans Act (Alberta, amended in 1987, 1999 and 2000).

1966: Supplemental Pension Plans Act (Quebec, amended in 1990, 1999 and 2000).

1965: Pension Benefits Act (Ontario, amended in 1988, 1998 and 1999).

The Pension Benefits Act of the province of Prince Edward Island has not yet been proclaimed into force.

The federal and provincial pension benefits legislation noted above typically set minimum standards for funding, investment, membership eligibility, vesting, locking-in, portability of benefits, death benefits and members' rights to information. If plans have members in more than one province, the pension standards law of the province in which the plan is registered must be applied.

Information in the sections below is based on the situation in Ontario. Although provisions may differ from province to province they are for the most part similar to those in Ontario. Where they differ substantially, it is indicated.

Plan Profile

Plan sponsors

Occupational pension plans may be sponsored by employers on a voluntary basis and may or may not be established pursuant to a collective agreement between employer and employee representatives. Both single and multi-employer plans are possible.

The mandatory contributory Canada and Quebec Pension Plans (basic social security scheme) provide a maximum retirement pension equal to 25% of the contributor's career average monthly pensionable earnings, and are intended to provide only a basic retirement income. Occupational pension plans are therefore an important supplementary element in providing a total retirement income more closely related to pre-retirement earnings.

Types of plans

Registered pension plans: In order to receive tax advantages, complementary occupational pension plans must be registered with the Canada Revenue Agency (CRA) and meet the requirements of the Income Tax Act (ITA) and either the federal Pension Benefits Standards Act (for employees in federally regulated industries such as banking, inter-provincial transportation, telecommunications and plans in the Territories or Nunavat) or the relevant provincial pension benefits legislation (see section Regulatory Framework). Once registered, these plans are known as registered pension plans (RPPs).

Affiliation of the employee to the plan is normally

voluntary under federal and provincial legislation except in Manitoba. However, provision for a plan to make membership compulsory is specifically permitted under the federal Pension Benefits Standards Act and legislation in British Columbia and Quebec.

Employees may make additional voluntary contributions to a registered pension plan subject to the overall tax limit.

Unregistered plans: Supplementary unregistered plans (usually known as Retirement Compensation Arrangements and Supplemental Plans - RCASP) are being established more and more frequently for high earners as the tax advantage gained in a registered plan has fallen in real terms over time. Unregistered plans may be unfunded (in which case they are paid from company resources on a pay-as-you-go basis) or funded (whereby the company allocates resources to fund the pensions). Unregistered plans do not receive tax advantages and are not covered further in the following sections.

Other plans: Registered retirement savings plans (RRSP) and deferred profit sharing plans (DPSP) also exist but these are not subject to the various pensions standards legislation (but do receive tax advantages under the Income Tax Act) and are not covered further in the following sections.

Institutional Framework

All registered pension plans: Plans are implemented mainly through trusts or may be managed entirely by an insurance company through an individual or group policy. However, some of the largest plans are classified as consolidated revenue arrangements (see section Methods of financing).

Requirements vary across provinces with regard to the establishment of a pension committee or a board of trustees to administer the plan, and the establishment of a pension council.

In Ontario, pension committees may be appointed to administer single-employer plans and multi-employer plans not established pursuant to a collective agreement. The pension committee may comprise only member representatives or both employer and employee representatives. A board of trustees, of which at least 50% must represent plan members (and may also include beneficiary representatives), must administer multi-employer plans established pursuant to a collective agreement.

Members and/or retirees may request a pension council to be established. The establishment of a pension council is optional. However, it must be established if the plan has 50 or more members or 50 or more retirees and either group requests so by majority vote. Each category of employee included in the plan may appoint one representative to the pension council and retirees must also be represented. The right to establish a pension council does not exist where a pension committee with member representation administers the plan or where the plan is a multi-employer plan established pursuant to a collective agreement. The pension council:

- Promotes awareness and understanding of the plan among its members;
- Reviews the financial, actuarial and administrative aspects of the plan;
- Performs prescribed administrative functions;
- Carries out any other tasks as defined in the pension plan.

Coverage

All registered pension plans: Public- and private-sector employees.

Employers may define categories of employees covered by a plan and may institute different plans for different categories of employees. Discrimination on the basis of age, sex or marital status is not permitted but employers may discriminate between high and low-income employees. Part-time employees are covered provided that they meet the minimum hours and earnings test set by the relevant province. In the case of Ontario, the test relates to having earned at least 35% of the year's maximum pensionable earnings (YMPE is the upper earnings limit for pension contributions under the Canada Pension Plan - CAD 41,100 a year in 2005) or worked at least

700 hours in each of the two previous consecutive calendar years.

The self-employed are not covered by registered pension plans but may contribute to registered retirement savings plans.

Financing / Investment

Sources of funds

Employee contributions

Defined contribution registered pension plans: Total employer and employee contributions must not exceed the lower of 18% of salary or CAD 18,000 a year (in 2005). It is envisaged to increase the latter limit to CAD 22,000 for 2009 and to adjust it regularly in line with changes in the average industrial wage thereafter.

Defined benefit registered pension plans: Employee contributions with interest should not exceed 50% of the cash value of the member's pension benefit credit, if it does then the member's pension benefit is increased by that excess amount.

Employer contributions

Defined contribution registered pension plans: Minimum of 1% of employees' yearly salary. Total employer and employee contributions must not exceed the lower of 18% of salary or CAD 18,000 a year (in 2005). It is envisaged to increase the latter limit to CAD 22,000 for 2009, and to adjust it regularly in line with changes in the average industrial wage thereafter.

Defined benefit registered pension plans: Employer contributions must be based on the Actuarial Valuation Report that is prepared on the basis of the minimum funding requirements established by the applicable pension legislation. The Income Tax Act prohibits employer contributions where the surplus of plan assets exceeds the lesser of:

- 10% of actuarial liabilities, and two times current service cost, whichever is greater; or
- 20% of actuarial liabilities.

Other sources of funds

All registered pension plans: None.

Methods of financing

All registered pension plans: Funded.

Some of the largest plans such as the superannuation plans of the federal public service, the armed forces, the Royal Canadian Mounted Police and the public service of some provinces are classified as consolidated revenue arrangements. In these plans, most of the contributions are paid into the consolidated revenues of the applicable government and benefits are paid out of general government expenditure on a pay-as-you-go basis. Some of the federal public service superannuation plans, however, now have their own funds and are no longer part of the consolidated revenue accounts.

Asset management

All registered pension plans: Insurance companies, trust companies or trustees may manage plan assets.

Assets must be invested with the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others (prudent person rule). The prudent person rule is mentioned in legislation except in Manitoba, Newfoundland, Prince Edward Island and Saskatchewan.

Moreover, there is a 30% limit on holding voting shares of a single company (except certain property or investment/resource capital companies). No more than 10% of the total assets of the plan can be invested in one company.

With regard to investment in property and resource properties, of total plan assets:

- 5% may be invested in one parcel;
- 15% may be invested in resource properties;
- 15% may be invested in property and resource properties.

Assets held by pension funds do not necessarily have to be held by custodians.

Defined contribution registered pension plans: Employees are frequently given choices between various investment options and in some cases employees may have complete freedom of choice. Employer contributions may replicate the investment of the employee or may be directed by the employer to other investment options. The employer usually decides on the provider, number and type of investment options.

Assets held by pension funds do not necessarily have to be held by custodians.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All registered pension plans: A maximum of 2 years continuous service in the case of full-time employees. In British Columbia and Alberta this condition is subject to having earned 35% of the year's maximum pensionable earnings (CAD 41,100 a year in 2005) in each of 2 consecutive calendar years and in each of the 2 immediately preceding consecutive calendar years respectively. There is no condition on length of service in Quebec but membership is subject to having earned 35% of the year's maximum pensionable earnings (CAD 41,100 a year in 2005) or worked at least 700 hours in the calendar year preceding application for membership.

A maximum of 2 years continuous service subject to having earned at least 35% of the year's maximum pensionable earnings (CAD 41,100 a year in 2005) in each of 2 consecutive calendar years in the case of part-time employees. Alternative test of having worked at least 700 hours in each of 2 consecutive calendar years applies in Ontario, Saskatchewan and Prince Edward Island. In Manitoba, part-time employees must join the plan after having earned at least 25% of the year's maximum pensionable earnings (CAD 41,100 a year in 2005) in each of two consecutive calendar years.

Vesting rules

All registered pension plans: Provisions under federal and provincial legislation vary slightly. Full vesting is, however, generally mandatory after a maximum of 2 years of plan membership or upon plan termination. Main exceptions are the provinces of New Brunswick (5 years of continuous service) and Prince Edward Island (5 years of continuous service and 3 years of plan membership if the plan is terminated prior to normal retirement date).

Upon termination of employment before vesting, employees receive a refund of their own contributions.

Preservation, portability, transferability

All registered pension plans: Portability and transferability are regulated by the relevant federal and provincial pension benefits legislation.

Options on termination of employment vary from province to province but all provinces include the possibility of the participant purchasing an annuity or transferring the value of their accrued pension rights to the new employer's pension plan (although the new employer is not obliged to accept the transfer). In some provinces, transfer into a locked-in retirement account (LIRA - individual account which may receive all pension rights during an individual's career), a registered retirement savings plan or other specific financial vehicle is also possible. An exception to the locking-in rule may be allowed if there is a shortened life expectancy or if the amount locked-in is very small.

Defined benefit plans are not portable in most provinces if within 10 years of normal retirement date. Exceptions are federally regulated plans and plans registered in Alberta and Manitoba.

After the vesting period, pension rights may not be reimbursed in cash to the individual.

Retirement benefits

Benefit qualifying conditions

All registered pension plans: Legislation requires that the normal plan retirement date must be no later than one year after attaining age 65 in Ontario, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and no later than the first day of the

month following the attainment of age 65 in Quebec. Latest date to receive benefits is not specified in other provinces or federally regulated plans. If the plan member continues to work and the pension is not in payment, accrual of benefits may continue up to the plan's maximum possible service or pension payable.

Early retirement is usually possible within 10 years prior to normal retirement age. Some plans allow early retirement at full pension commencing from between age 60 and 63.

Benefit structure / formula

All registered pension plans: May be defined benefit or defined contribution. In addition "flexible" plans (add-on to basic defined benefit plans) exist where the payment of contributions is allowed to purchase improvements such as indexation, early retirement and survivor benefits. Hybrid plans which possess the characteristics of both defined benefit and defined contribution plans exist but currently cover very few employees.

Annuity rate based on sex is allowed in some provinces.

Many plans are integrated with the mandatory Canada and Quebec Pension Plans. Where integrated, they have a two-tier contribution structure with a lower rate applied to earnings below the year's maximum pensionable earnings (upper earnings limit for contributions under the Canada Pension Plan - CAD 41,100 a year in 2005) and a higher one to those earnings above that amount.

Defined contribution registered pension plans: Option is possible between pension and lump sum. A lump sum may be transferred to lock-in options with the requirement to purchase an annuity at a certain age.

Defined benefit registered pension plans: Benefits are paid as pensions with the possibility in some provinces to receive a certain percentage of the pension entitlement as a lump sum. Lump sum is paid if the annual pension is less than a certain percentage (2% or 4% depending on provinces) of the year's maximum pensionable earnings.

The maximum pension is generally limited to the lesser of:

- CAD 2,000 (in 2005) times the number of years of pensionable service; or
- 2% of pensionable service a year times the average of the best 3 consecutive years of an employee's remuneration.

It is envisaged to increase the limit of CAD 2,000 in 2005 to CAD 2,444 in 2009. It will then remain at 1/9 of the limit on the total employer and employee contribution under defined contribution plans (see section Sources of funds) and be adjusted in line with the adjustments of the latter.

Benefit adjustment

All registered pension plans: No legal rules.

Benefit adjustments are regulated in the plan or based on discretionary decisions by the plan sponsor.

Survivors

All registered pension plans: The definition of spouse varies according to relevant federal or provincial legislation (main variation concerns the length of relationship where not married). Same sex partners now recognized in some jurisdictions.

The spouse's pension equals at least 60% of the deceased member's pension (except for Manitoba where it is 66.66%).

Disability

All registered pension plans: Plans are not required to provide disability benefits. Disability benefits are frequently provided under separate arrangements either directly by the employer or through insurance.

Protection of Rights

All registered pension plans: Significant reliance is placed on fiduciary responsibilities of plan sponsors and good plan governance expectations to protect rights and to resolve disputes before legal action is taken.

Protection of Assets

All registered pension plans: Plan assets must be kept separate from the assets of the sponsoring employer.

Financial and Technical Requirements / Reporting

All registered pension plans: Good governance principles dictate that there are accountability, internal controls and expense controls in place. Federally regulated plans must file Annual Information Returns (administrative data, membership changes and contribution levels) and Annual Certified or Audited Financial Statements.

Defined benefit registered pension plans: Subject to actuarial valuation and cost certificate at least once every 3 years.

Defined benefit plans must include a solvency valuation in the regular triennial reports that are prepared in accordance with the standards of practice adopted by the Canadian Institute of Actuaries. If the solvency ratio is less than one, valuations are required annually and special solvency payments must amortize the solvency deficiency over a 5-year period.

Whistleblowing

All registered pension plans: When fund assets of federally regulated pension plans are held by custodians they must inform the regulator if expected contributions are not received within 30 days or required date.

Standards for service providers

All registered pension plans: Good governance principles prescribe that trustees and fund administrators must have adequate knowledge and skills.

Fees

All registered pension plans: No legal rules.

Winding up / Merger and acquisition

All registered pension plans: Plans are wound up if the sponsoring employer is insolvent.

Legislation requires safeguarding of entitlements during mergers and acquisitions.

Bankruptcy: Insolvency Insurance / Compensation Fund

Defined benefit registered pension plans: A fully funded plan is the only protection available if the employer is insolvent and the plan is wound up. Only Ontario has a Pension Benefits Guarantee Fund, which provides some protection of benefits.

Disclosure of information / Individual action

All registered pension plans: Federally regulated pension plans are required to provide members with annual statements detailing benefits accrued to date under the plan. Statements must also be provided within 30 days of retirement or cessation of membership detailing benefits and options available. All members are entitled once per year to see documents filed with the regulator.

Good governance principles dictate that there is transparency and full disclosure to all members.

There are no legal provisions for resolving complaints or disputes between plan members or beneficiaries and the trustees or fund administrators. However, good governance principles aim at resolving disputes before legal action is taken.

Other measures

All registered pension plans: None.

Tax Treatment

Taxation of employee contributions

All registered pension plans: Tax-exempt up to the lesser of 9% of salary and 70% of the value of the annual pension accrual plus CAD 1,000. The pension accrual is the total cash value of all pension credits

(accrued benefits) accumulated by an individual during a year under one or more plans.

Taxation of employer contributions

Defined contribution registered pension plans: Tax-exempt up to the maximum earnings considered for contribution purposes (18% of salary or CAD 18,000, whichever is lower). It is envisaged to increase the CAD 18,000 limit to CAD 22,000 for 2009, and to adjust it regularly in line with changes in the average industrial wage thereafter. Employee contributions are taken into account for this limit.

Defined benefit registered pension plans: Tax-exempt up to a ceiling of an accrual rate of 2% of the 3-year final average earnings (maximum final average earnings are CAD 86,111).

Taxation of investment income

All registered pension plans: Tax-exempt.

Taxation of benefits

All registered pension plans: Lump-sum benefits and pensions are taxed as income in the year in which they are paid.

Regulatory and Supervisory Authorities

Canada Revenue Agency: Separate federal agency responsible for administering tax programs. Authorizes applications for registration of private pension plans under the Income Tax Act.

Canada Revenue Agency
Registered Plans Division
Revenue Canada
3rd floor
45 Sacre-Coeur Boulevard
Hull QC K1A 0l5
Canada
Tel.: (+1) 613 954 0419 (English)
(+1) 613 954 0930 (French)
Fax: (+1) 613 952 0199
Internet: www.cra-arc.gc.ca

Office of the Superintendent of Financial Institutions: Responsible for government employee plans or employers involved in federally regulated industries such as banks, interprovincial transportation or telecommunications.

Office of the Superintendent of Financial Institutions
255 Albert Street
Ottawa, Ontario
K1A 0H2
Canada
Tel.: (+1) 316 990 7788
Fax: (+1) 613 990-5591
Internet: www.osfi-bsif.gc.ca

The following provincial pension standards supervisory authorities (directly financed by a plan fee calculated on the number of members) apply provincial pension standards law.

Alberta Treasury: Responsible for pension plans registered in Alberta under the Employment Pension Plans Act.

Alberta Treasury
Employment Pensions
#401, 9515 - 107 Street
Edmonton, Alberta T5K 2C3
Canada
Tel.: (+1) 780 427 8322
Fax: (+1) 780 422 4283
Internet: www.finance.gov.ab.ca

The Pension Standards Branch: Responsible for pension plans registered in British Columbia under the Pension Benefits Standards Act.

Pension Standards Branch
360 West Georgia Street, Suite 870
Vancouver
British Columbia V6B 6B2
Canada
Tel.: (+1) 604 775 1266
Fax: (+1) 604 660 6517
Internet: www.labour.gov.bc.ca

Manitoba Pension Commission: Responsible for pension plans registered in Manitoba under the Pension Benefits Act.

Manitoba Pension Commission
1004-401 York Ave
Winnipeg, MB R3C 0P8
Canada
Tel.: (+1) 204 945 2740
Fax: (+1) 204 948 2375
Internet: www.gov.mb.ca

Office of the Superintendent of Pensions:
Responsible for pension plans registered in New Brunswick under the Pension Benefit Act.

Office of the Superintendent of Pensions
Department of Training and Employment Development
P.O. Box 6000
Fredericton, NB
E3B 5H1
Canada
Tel.: (+1) 506 453 2055
Fax: (+1) 506 453 3806
Internet: www.gov.nb.ca

Insurance and Pensions Division: Responsible for pension plans registered in Newfoundland and Labrador under the Pension Benefits Act.

Insurance and Pensions Division
Confederation Building
P.O. Box 8700
Prince Philip Drive
St. John's, NL
A1B 4J6
Canada
Tel.: (+1) 709 729 6014
Fax: (+1) 709 729 3205
Internet: www.gov.nf.ca

Department of Environment and Labour:
Responsible for pension plans registered in Nova Scotia under the Pension Benefits Act.

Department of Environment and Labour
Pension Regulation Division
5151 Terminal Road, 6th floor
P.O. Box 697
Halifax, NS B3J 2T8
Canada
Tel.: (+1) 902 424 5300
Fax: (+1) 902 424 0503
Internet: www.gov.ns.ca

Financial Services Commission of Ontario:
Responsible for pension plans registered in Ontario under the Pension Benefit Act.

Financial Services Commission of Ontario
5160 Yonge Street
PO Box 85
North York, Ontario
M2N 6L9
Canada
Tel.: (+1) 416 226 7776
Fax: (+1) 416 590 7070
Internet: www.ontarioinsurance.com

Régie des rentes du Québec: Responsible for pension plans registered in Quebec under the Supplemental Pension Plans Act.

Régie des rentes du Québec
Direction des régimes de retraite
Case Postale 5200
Québec
G1K 7S9
Canada
Tel.: (+1) 418 643 8282
Internet: www.rrq.gouv.qc.ca

Pension Benefits Branch: Responsible for pension plans registered in Saskatchewan under the Pension Benefits Act.

Pension Benefits Branch
1871 Smith St.
Regina SK
S4P 3V7
Canada
Tel.: (+1) 306 787 7650
Fax: (+1) 306 787 9779
Internet: www.saskjustice.gov.sk.ca

United States

Exchange rate: US dollar (USD).

Regulatory Framework

2001: Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA); increases contribution and benefit limits, improves transferability between different types of plans and regulates faster vesting for employer matching contributions to 401(k) plans.

1994: Uruguay Round Agreements Act; amends ERISA, requires greater contributions to underfunded defined benefit plans and limits the range of interest rate and mortality assumptions used to establish funding levels.

1986: Tax Reform Act; amends ERISA, establishes faster minimum vesting rules, limits the effect of integration with the social security scheme, expands coverage of nonhighly compensated employees and imposes an excise tax on excess plan assets that revert to an employer upon winding up of a pension plan.

1984: Retirement Equity Act; amends ERISA, requires that when a plan provides pensions at retirement, survivor pensions must be provided unless the spouse waives the right in writing to survivor pension.

1978: Revenue Act; establishes 401(k) plans.

1974: Employee Retirement Income Security Act (ERISA); most important complementary occupational pension plan law in the United States. Provides for protection of rights through regulation of participation, vesting, funding, fiduciary standards and reporting, and through the establishment of the Pension Benefit Guaranty Corporation which pays benefits in the case of financial failure of defined benefit plans.

1947: Labour-Management Relations Act (also known as Taft-Hartley Act); provides guidelines for the operation of pension plans administered jointly by employer and employee trustees.

1942: Revenue Act; establishes for the first time the principle that benefits are to be provided to nonhighly compensated employees on a nondiscriminatory basis.

1928: Revenue Act; allows employers to claim tax deductions for reasonable amounts contributed to pension plans.

1921: Revenue Act; exempts pension trust investment earnings from current taxation.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis a complementary occupational pension plan for their employees. The plan sponsor decides what type of plan to establish.

For a group of unionized employees, the employer must negotiate with the union concerning any occupational pension plan which becomes part of the work contract. Multi-employer plans result from collective bargaining between organizations representing several employers and unions.

Individual employees, the self-employed and nonemployed spouses may establish Individual Retirement Arrangements (IRAs) through a contract with an IRA provider. IRAs have tax advantages for the IRA holder. Some employer-sponsored plans may be implemented through IRAs (see Section Types of plans).

Types of plans

There are two basic types of plans, defined benefit and defined contribution plans.

All plans: All plans must meet standards established by ERISA to receive tax-qualified status and must apply to the Internal Revenue Service if they want a determination of that status. Some of the ERISA standards for tax qualification include minimum coverage, participation and vesting requirements. Plans cannot include a disproportionate amount

of highly compensated employees over nonhighly compensated employees or pay disproportionately greater benefits to the former (nondiscrimination rules). Plans must be operated in a fiduciary sound manner and be adequately funded.

Defined benefit plans: Defined benefit plans are based on a formula that often includes years of service and a percentage of salary. The sponsoring employer bears the risk to ensure that the benefits are available at retirement.

If an employer offers a plan, participation is automatic and thus compulsory for covered employees. Employers are not required to cover all employees but they must meet minimum employee coverage and nondiscrimination rules.

Defined contribution plans: Defined contribution plans feature individual accounts for members. The benefits are based on employer and employee contributions along with income, gains, losses and forfeitures (from other employees' accounts). The plan member bears the risk under this type of plan.

Participation may be automatic or voluntary for covered employees depending on the type of defined contribution plan and/or plan rules. Employers are not required to cover all employees, but they must meet minimum employee coverage and nondiscrimination rules.

There are many types of defined contribution plans and the most important ones are:

- *Profit-sharing plan* - plan established and maintained by an employer to provide for the participation by employees in the sponsoring employer's profits. While this is the traditional definition, the contributions may now be based on salary. The method for determining contributions must be defined in the plan;
- *Employee stock ownership plan (ESOP)* - plan that provides shares of stock in the sponsoring employer to plan members. An ESOP invests at least 51% of its assets in the sponsoring employer stock and is permitted to borrow money on a tax-deductible basis to purchase this stock;
- *Stock bonus plan* - plan under which contributions are made in the form of company stock derived from a portion of the company's profits. Benefits are also paid in the form of company stock.

401(k) plans: Defined contribution plans developed specifically under section 401(k) of the Internal Revenue Code under which employees are allowed to make before-tax contributions from their salaries (see section Taxation of employee contributions). This feature may be incorporated into most types of defined contribution plans.

Individual Retirement Arrangements (IRAs): Tax-favoured defined contribution arrangements which may be established by individuals in the form of either an individual retirement account or an individual retirement annuity. There are several types of Individual Retirement Arrangements (IRAs) including traditional, Roth, SIMPLE and SEP IRAs. The latter two types are employer-sponsored plans that are implemented through IRAs:

- *Savings Incentive Match Plan for Employees (SIMPLE)* - an employer with less than 100 employees may establish a SIMPLE through a contract with an IRA provider to which employees earning at least USD 5,000 can contribute a portion of their before-tax salaries. The maximum employee contribution is USD 10,000 (USD 12,000 for employees age 50 or older). Employers either match the employee contribution by as much as 3% of salary or make a straight contribution of as much as 2% of salary. Both employee and employer contributions vest immediately.
- *Simplified Employee Pension (SEP)* - plan for small employers in which they establish SEP-IRAs through a contract with an IRA provider for themselves and their employees. The maximum contribution limits are 25% of salary or USD 42,000, whichever is less, and contributions vest immediately.

IRAs, including SIMPLE and SEP IRAs, are not covered further in the following sections.

Institutional Framework

All plans: Plans must be implemented under a written trust agreement or through an insurance

contract.

Under a trust agreement, the management is the responsibility of the trustees who are fiduciaries and must discharge their duties solely in the interest of plan members and beneficiaries. Trustees can be either companies or individuals. There are no legal requirements concerning who may or may not be a trustee. However, the duty of care or responsibility which a trustee must exercise on behalf of plan members and beneficiaries is clearly defined.

The trustees may manage the contribution and benefit administration or contract it to a pension management or insurance company. Pension management companies are subject to the fiduciary rules of the ERISA pension legislation.

Under an insurance contract, the insurance company manages the contribution and benefit administration. The establishment and operations of insurance companies are subject to the law of the state where the insurance company is located.

Coverage

All plans: Private-sector employees.

Sponsoring employers have some flexibility in determining who will be covered under a plan and can create different plans for different groups. In order to receive tax-qualified status, however, a plan must satisfy legal requirements concerning nondiscrimination in contributions and benefits. Coverage and participation must not discriminate in favour of highly compensated employees. Age discrimination against older employees is prohibited.

Plans for public-sector employees are not subject to the vesting and participation restrictions of ERISA but to Internal Revenue Code (tax law) restrictions on contributions and benefits. They are also subject to the state and local laws regulating the particular governmental unit. Plans for federal government employees are governed by federal law.

Individual employees, the self-employed and nonemployed spouses may establish Individual Retirement Arrangements (IRAs) through a contract with an IRA provider. Self-employed persons have some plan choices in addition to IRAs that provide for higher contribution limits (e.g. Keogh plans).

Information on public-sector plans and IRAs is not provided further in the following sections.

Financing / Investment

Sources of funds

Employee contributions

All plans except 401(k) plans: Plans are usually noncontributory.

401(k) plans: The right to make employee contributions is a condition of plan membership.

Employer contributions

All plans: There are maximum limits on employer contributions (see section Taxation of employer contributions).

All plans except 401(k) plans: Employers are required to contribute.

401(k) plans: Employer contributions (known as employer matching contributions) usually depend on the employee contribution. The proportion of the employee contribution matched by the employer depends on plan rules.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Asset management

All plans: In the case of plans implemented through a trust, the plan sponsor may manage the assets or delegate the asset management to one or several asset managers. In that case, the trustee may be one of the asset managers. Contracted asset managers must be an investment adviser registered under the Investment Advisers Act of 1940, a bank, or an insurance company qualified under the laws of two or more

states to provide asset management services.

The plan sponsor or, when delegated to do so by the plan sponsor, the trustees decide on the general investment policy.

Assets must be invested with the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others (prudent person rule).

In the case of defined benefit plans and certain defined contribution plans, a maximum of 10% of total assets may be invested in the sponsoring employer.

There is a general prohibition against business and investment transactions between the plan and parties with which there might be a conflict of interest.

In the case of plans implemented through insurance contracts, the insurance company manages the assets. The investment is subject to the law of the state where the insurance company is located.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: Employers may define service and age requirements for participation in a plan.

The waiting period for workers age 21 or more cannot be more than 1 year of service, except if the plan provides immediate full vesting. In that case a waiting period of up to 2 years may be applied.

The minimum age cannot be more than 21 and there must not be a maximum age for membership.

Vesting rules

All plans except 401(k) plans: Two methods for the vesting of employer contributions may be applied:

- Full vesting after 5 years of service; or
- Gradual vesting beginning at 20% of contributions after 3 years of service and rising gradually to 100% after 7 years.

401(k) plans: Two methods for the vesting of employer matching contributions may be applied:

- Full vesting after 3 years of service; or
- Gradual vesting beginning at 20% of contributions after 2 years of service and rising gradually to 100% after 6 years.

All plans: Employee contributions vest immediately.

More rapid vesting of employer contributions may be required if the plan is considered by the Internal Revenue Service to have a disproportionately high percentage of benefits or contributions going to certain highly compensated employees.

Full vesting must occur when a member reaches the plan's normal retirement age, which usually is age 65 for defined benefit plans, or if the plan is wound up.

Preservation, portability, transferability

All plans: Upon termination of employment before retirement, plan members may, if the plan provides for this option, withdraw the cash value of their accrued benefits or their accumulated own and vested employer contributions as a lump sum. Defined contribution plans usually provide for this option whereas it is rare under defined benefit plans. An excise tax generally applies to such lump-sum withdrawals before age 59 and 6 months in addition to income tax.

In the case of defined benefit plans, accrued benefits are usually preserved in the plan. There are no legal requirements concerning the adjustment of preserved benefits.

In the case of defined contribution plans, it is, depending on the type of plan, possible to transfer the accumulated capital to another plan.

Employees cannot continue contributing to a plan after terminating employment with the sponsoring employer.

EGTRRA (see section Regulatory framework) increased transferability by expanding the types of plans that can take transfers and making it easier to transfer rights from one type of plan to another (e.g. between public-sector and private-sector plans). In addition, the law provides for easier transfer

of benefits that a surviving spouse receives as a beneficiary to plans that the spouse participates in.

Retirement benefits

Benefit qualifying conditions

All plans: The normal retirement age is defined in the plan rules (usually full benefits at age 65). Often reduced benefits are available at age 55.

Deferred retirement is allowed, as employers cannot require employees to retire solely on account of reaching a certain age.

Benefit structure / formula

All plans: Plans may or may not be integrated with the social security scheme. Integration may be by taking social insurance benefits into account in the calculation of either benefits or contributions.

Defined benefit plans: No legal rules, except a tax limit on the accrual of benefits (see section Taxation of employer contributions).

A great variety of defined benefit plans with different benefit formulas exist. Benefits may be earnings-related or flat rate. Formulas may be based on average career salary or final salary etc. Cash balance plans are defined benefit plans under which the employer records notional contributions into hypothetical individual accounts and periodically adds interest at a predefined rate. These plans have developed as an alternative to traditional plans.

It is prohibited that benefits accrue too disproportionately at the end of a member's career. Accrual must not be reduced or discontinued because of age, but the employer is allowed to restrict the number of years of benefit accrual if the member works beyond the plan's normal retirement age.

Plans must permit benefits to be paid as pensions, but some offer a lump-sum benefit option. Benefits are usually paid as pensions.

Defined contribution plans: At least once a year the investment gains and losses are allocated to the individual accounts along with any employer and/or employee contributions. The accumulated capital is at retirement either paid as a lump sum or converted into a pension.

The plan sponsor determines in the plan rules whether or not pensions are provided.

Benefit adjustment

All plans: No legal rules.

Plan sponsors may increase pensions in payment on a discretionary basis.

Survivors

All plans: A spouse pension must be paid where the plan rules provide for an old-age pension (see section Retirement Benefits, Benefit structure / formula) to be payable to retirees unless the spouse waives the right to the survivor pension at the member's retirement. The waiver must be in writing and witnessed by a notary public or plan representative.

If a plan member dies before drawing benefits, the plan must pay a pension to the surviving spouse beginning when the member would have reached the plan's early retirement age or the member's death, whichever is later.

The benefit must equal at least 50% of the deceased member's old-age pension. Upon death before retirement, the benefit must equal at least 50% of the accrued pension at the time of death in the case of defined benefit plans.

Defined contribution plans that only provide lump sums at retirement, which are nearly all defined contribution plans, are not subject to survivor benefit rules. In this case the deceased member's accumulated capital is paid to the spouse as a lump sum.

Disability

All plans: Separate disability arrangements may be provided with a distinction between short-term disability (usually up to 6 months, but sometimes extending up to 1 year) and long-term disability.

Protection of Rights

Protection of Assets

All plans: Plan assets must be held separately from the assets of the sponsoring employer.

Financial and Technical Requirements / Reporting

All plans: Annual reports for the plan containing a financial statement must be filed with the Internal Revenue Service and the Labour Department for regulatory oversight.

The annual financial statements for large plans (100 or more participants) must be audited.

Defined benefit plans: Funding of defined benefit plans is regulated to limit underfunding, which would pose a potential liability to the Pension Benefit Guaranty Corporation (see section Bankruptcy: insolvency insurance / compensation fund). Overfunding is regulated to prevent loss of tax revenue to the federal government through the tax-deductibility of employer contributions.

Funding regulations require minimum contributions when plans are underfunded and prohibit contributions when they are overfunded by a certain amount.

Defined benefit plans must be evaluated annually by an actuary.

Whistleblowing

All plans: There are no legal requirements for service providers of a pension plan to inform the supervisory authority if they believe that the plan is not being managed in compliance with legal requirements.

Standards for service providers

All plans: Auditors must meet minimum legal requirements to provide services to pension plans and must be professionally certified.

Actuaries must meet minimum legal requirements to provide services to pension plans and pass certain examinations.

Fees

All plans: No legal rules.

There are, however, general fiduciary limitations that the plan fiduciaries must act solely in the interests of plan members in negotiating fees.

Winding up / Merger and acquisition

All plans: Winding up can be done at the discretion of the sponsoring employer, if the plan is not based on collective bargaining, and if it is a defined contribution plan or a fully funded defined benefit plan. If the plan is based on collective bargaining, it cannot be wound up without the consent of the union. If the plan is underfunded, it cannot be wound up without the consent of the Pension Benefit Guaranty Corporation (see section Bankruptcy: insolvency insurance / compensation fund). If the plan is overfunded, the plan sponsor must pay a reversion tax on the excess assets.

Bankruptcy: Insolvency Insurance / Compensation Fund

Defined benefit plans: The Pension Benefit Guaranty Corporation (PBGC) pays benefits in the event of the winding up of a defined benefit plan if the sponsoring employer is bankrupt or financially unable to continue the plan and the plan is unable to meet all its benefit obligations.

Employers sponsoring single-employer plans must pay annual premiums to the PBGC of USD 19 for the coverage of each member plus 0.9% of the unfunded liability if a plan is underfunded.

The maximum guarantee is USD 45,614 a year per member who first receives benefits at age 65 in 2005 (updated annually) and receives a single-life annuity. The maximum is lower for members retiring at earlier ages.

Defined contribution plans: Not subject to PBGC rules and benefits are not guaranteed.

Disclosure of information / Individual action

All plans: All plans must be disclosed to members in a written plan document. Plan members must receive a simplified form of the plan document known as summary plan description and a summary of material modifications when plan features are changed.

There is no legal requirement in defined contribution plans to disclose the dollar amount of fees that plan members pay.

There is no legal requirement to regularly inform members of their accrued benefits or accumulated capital.

Annual plan reports (see bsection Financial and technical requirements / reporting) must be made publicly available.

Plan members can seek to have disputes resolved by contacting the Department of Labour for assistance, or by suing the sponsoring employer in a legal action in the court system.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans except 401(k) plans: Taxed and subject to social security contributions.

401(k) plans: Exempt from income tax up to a yearly ceiling of USD 14,000 (USD 18,000 for employees age 50 or older) but subject to social security contributions.

Taxation of employer contributions

Defined benefit plans: Tax-exempt up to a level that allows an annual pension of USD 170,000.

Defined contribution plans: Tax-exempt up to a contribution limit of USD 42,000 a year or 25% of salary if this is lower.

All plans: Exempt from social security contributions.

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

All plans: Taxed as income (except benefits financed through taxable employee contributions).

Regulatory and Supervisory Authorities

Internal Revenue Service (IRS): Administers the Internal Revenue Code and has primary responsibility for determining the tax-qualified status of plans. It has jurisdiction over the eligibility, vesting and funding requirements under ERISA. The IRS is part of the Department of Treasury.

Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224
USA
Tel.: (+1) 800 829 1040
Internet: www.irs.gov

Employee Benefits Security Administration (EBSA): Formerly the Pension and Welfare Benefits Administration, enforces ERISA's standards concerning reporting, disclosure and fiduciary matters. The EBSA is part of the Department of Labour.

U.S. Department of Labour
EBSA Office of Public Affairs
200 Constitution Ave., NW
Room S-1032
Washington, DC 20210
USA
Tel.: (+1) 202 693 4650
Internet: www.dol.gov/ebsa

Pension Benefit Guaranty Corporation (PBGC): Administers plan winding up (termination) rules and an insolvency insurance program for defined benefit plans. PBGC is a federal government corporation established by ERISA.

Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005 - 4026
USA
Tel.: (+1) 202 326 4000
Internet: www.pbgc.gov

AMERICAS - Mandatory

Information valid at 01-07-2005

Argentina

Exchange rate: USD 1.00 equals 2.88 pesos (ARS).

Regulatory Framework

1993: Law nº 24,241; creates the Integrated Retirement and Pension System (*Sistema Integrado de Jubilaciones y Pensiones* - SIJP) which introduces the private pension scheme, regulates the establishment and operation of pension fund administrators (*Administradoras de Fondos de Jubilaciones y Pensiones* - AFJPs), the PAYG scheme reform, the Superintendence, asset management, and the protection of rights.

Types of Schemes

All employees and self-employed persons must become members of the Integrated Retirement and Pension System (SIJP), comprising a PAYG scheme (*Régimen de reparto*) and a funded scheme (*Régimen de capitalización*).

All those who first commence work after 14 July 1994 must explicitly choose to be PAYG scheme members, otherwise they become funded scheme members.

A public institution, the National Social Security Administration (*Administración Nacional de la Seguridad Social* - ANSES), administers the PAYG scheme and pension fund administrators (*Administradoras de Fondos de Jubilaciones y Pensiones* - AFJP) administer the private funded scheme.

Persons who opt for the private funded scheme may choose to become a member of any AFJP without influence of their employers.

Each AFJP administers one fund, which is a defined contribution fund, and the assets that are accumulated in individual accounts are the exclusive property of each respective affiliate member.

Members cannot participate in both the PAYG and funded schemes simultaneously but members who opt for the PAYG scheme may later transfer to the funded scheme at any time. However, it is not possible to transfer from the funded scheme to the PAYG scheme. Members may transfer the individual account from one AFJP to another twice a year.

All funded scheme members may make voluntary contributions to their individual accounts.

Employees and the self-employed may also participate in voluntary complementary pension plans outside the SIJP.

Information on the PAYG scheme is only covered in the following paragraphs where it interacts with the funded scheme.

Institutional Framework

Integrated retirement and pension system (SIJP): The law provides for the establishment of a National Social Prevision Council (with worker, employer and beneficiary representatives) to develop, supervise and improve the system comprising the PAYG and funded schemes. However, the Council has never been established.

SIJP funded scheme: Pension fund administrators (AFJPs) must be limited liability companies that have the exclusive tasks of fund administration, investing individual account balances, and pension benefits management. Each AFJP administers only one pension fund.

On establishment AFJPs must have a minimum capital of ARS 3 million. Any deficit in the minimum capital requirement after establishment must be eliminated within three months otherwise the Superintendence of AFJPs will revoke the AFJP's authorization to operate.

Groups of shareholders, including banks and other financial institutions, corporations, trade unions and worker groups may establish an AFJP. The state must also own one AFJP. The Superintendence of AFJPs must authorize the establishment of each AFJP. There are currently 12 AFJPs:

- Arauca Bit
- Consolidar
- Futura
- Máxima
- Met
- Nacion (state owned)
- Origenes
- Previsol
- Profesion+Auge
- Prorenta
- Siembra
- Unidos

There are no legal requirements concerning the existence or composition of a governing board of an AFJP.

The Federal Administration of Public Incomes (*Administración Federal de Ingresos Públicos* - AFIP) collects contributions and distributes them to the appropriate AFJP for payment into the individual accounts. AFJPs are responsible for benefit and fund administration.

AFJPs must keep the pension fund's assets separate from their own assets. Pension fund assets and liquid reserves must be held by custodians authorized by the National Securities Commission or by financial institutions authorized by the Central Bank jointly with the Superintendence of AFJPs.

Each AFJP must sign a collective life contract with an insurance company in order to provide disability and survivor benefits.

Coverage

Covered population

Integrated retirement and pension system (SIJP): All private- and public-sector employees and self-employed workers must become members of the SIJP. They may opt between the PAYG and the funded scheme. Members who opt for the PAYG scheme may transfer to the funded scheme at any time. However, it is not possible to transfer from the funded scheme to the PAYG scheme.

Membership of the SIJP is voluntary for governing body members of cooperatives, the clergy, members of professional provincial schemes and housewives.

Enforcement of affiliation

Integrated retirement and pension system (SIJP): Before employing someone, employers must obtain a unique identifier code for that employee from the tax agency (*Administración Federal de Ingresos Públicos* - AFIP). Self-employed workers must register themselves with the tax agency before starting self-employed activities.

All new employees and self-employed workers have 90 days to choose between the PAYG and funded schemes. If the option is not made workers automatically become members of the funded scheme.

SIJP funded scheme: If a member does not choose to which pension fund administrator (AFJP) to belong the member is allocated by the National Social Security Administration (*Administración Nacional de la Seguridad Social* - ANSES) to the AFJP with the lowest fees that has an office in the province where the member lives.

AFJPs may contract with marketing agents to promote the AFJP and acquire new members. Marketing agents are employees of the AFJP and do not have to have any specific qualifications or meet any specific conditions.

AFJPs are not allowed to refuse any request for affiliation from eligible persons. Members cannot have more than one individual account.

Financing / Investment

Sources of funds

Member contributions

Integrated retirement and pension system (SIJP): Member contributions are paid to either the PAYG scheme or funded scheme depending on which scheme the member chose.

Self-employed workers contribute both the employee and employer contribution totalling 27% (they still

pay the original rate of member's contribution of 11%) according to a fixed income reference scale determined by the state. The employee element is paid to the scheme chosen by the self-employed person.

SIJP funded scheme: 7% of gross salary between ARS 240 per month and ARS 4,800 per month (original employee contribution imposed by law was 11%). The employee element paid by the self-employed is still 11% and is paid on a fixed income reference scale determined by the state.

On average, pension fund administrators (AFJPs) charge fees of 2.514% (included in the 7%) of the contributory salary of which 1.043% is for administration and 1.471% for life and disability insurance to provide survivor and disability benefits.

Additional voluntary contributions to the individual account may be paid either as agreed deposits, which are deducted from the employee's salary and paid periodically by the employer, or as extraordinary voluntary contributions, which are paid by the member on an ad hoc basis.

There are no salary limits for voluntary contributions.

Employer contributions

Integrated retirement and pension system (SIJP): Employers' contributions are paid to the PAYG scheme regardless of the scheme chosen by the employee.

The average mandatory employer contribution for retirement benefits is 10.17% or 12.71% of the employee's monthly gross salary, according to the type of enterprise (original employer contribution imposed by law was 16%). The lower salary limit is ARS 240 per month with no upper salary limit for employers' contribution.

Self-employed workers contribute both the employee and employer contribution totalling 27% (they still pay the original rate of member's contribution of 16%) according to a fixed reference income scale determined by the state. The employer element is paid to the PAYG scheme.

Other sources of funds

SIJP funded scheme: None.

Methods of Financing

SIJP funded scheme: Fully funded in individual accounts.

Asset Management

SIJP funded scheme: Assets must be exclusively invested by pension fund administrators (AFJPs) in authorized securities and financial markets according to legal restrictions for each asset class. Most important upper limits are:

- 50% in national public debt notes (up to 100% if they have specific assignation revenues);
- 30% in other public debt notes;
- 40% in securities issued by private institutions with a maturity of more than two years;
- 20% in securities issued by private institutions with a maturity of less than two years;
- 30% in fixed term deposits;
- 50% in equities of national limited liability companies;
- 20% in equities of privatized companies; and
- 10% in securities issued by foreign states.

AFJPs cannot invest in other AFJPs, insurance companies and rating agencies or in assets issued or guaranteed by the same economic group to which they belong.

Assets in which AFJPs may invest must have a minimum risk qualification issued by the Central Bank or authorized rating agencies.

The minimum scheme rate of return that AFJPs must reach is the lower of 70% of the scheme average rate of return or scheme average rate of return minus 2%. The scheme average rate of return is a weighted average of the rate of return of each pension fund.

Each AFJP must hold liquid reserves of 1% of the pension fund balance and must not in any case be less than ARS 1.5 millions. AFJPs may fulfil this condition by holding a banker's guarantee for this sum instead of having actual cash reserves.

Benefit provisions

Preservation, portability, transferability

Integrated retirement and pension system (SIJP): PAYG scheme members may transfer to the funded scheme at any time. However, it is not possible to transfer from the funded scheme to the PAYG scheme.

SIJP funded scheme: Members may transfer the individual account balance from one pension fund administrator (AFJP) to another twice a year after completing at least 4 monthly contributions to the same AFJP. If members receive programmed withdrawals or partial withdrawals, they may transfer the individual account balance from one AFJP to another twice a year after receiving at least 4 monthly payments from the same AFJP.

Retirement Benefits

Benefit qualifying conditions

SIJP funded scheme: Affiliate members may receive retirement benefits on reaching age 65 for men or age 60 for women or they may receive anticipated retirement benefits before that age if their individual account balance is sufficient to finance a monthly benefit, paid under the life pension annuity or programmed withdrawal method, of 50% of the base salary or ARS 460 a month, whichever is the higher.

Members may receive retirement benefits and continue to work as long as it is under a new employment contract. In these circumstances the beneficiary must continue to pay member contributions. However, these contributions are paid to the National Employment Funds to help finance unemployment benefits and do not increase the member's pension benefits.

At retirement age, if a member has paid 30 or more (up to a maximum of 45) years of contributions to the Integrated Retirement and Pension System (SIJP) the member receives from the PAYG scheme:

- Basic universal pension; and
- Compensatory pension if the member paid contributions to the PAYG scheme prior to 1994; and/or
- Additional pension if the member paid contributions to the PAYG scheme after 1994 (before opting to join the private funded scheme).

Withdrawal of funds before retirement

SIJP funded scheme: Withdrawals before retirement are not allowed.

Benefit structure / formula

SIJP funded scheme: Retirement benefit is based on the amount accumulated in the member's individual account. Members can decide on three methods to receive benefit:

- Life Pension Annuity (*Renta Vitalicia Previsional*) in which case they transfer their accumulated capital in the individual account to a life insurance company, which pays the retirement benefit;
- Programmed Withdrawals (*Retiro Programado*) in which case the AFJP holds the individual account balance and pays the retirement benefit. Programmed withdrawals are recalculated annually according to actuarial methods; and
- Partial Withdrawals (*Retiro Fraccionario*) which is used in the case that the individual account balance is not sufficient to reach a monthly benefit of ARS 115. The benefit is paid until the balance is exhausted.

If the balance in the individual account exceeds the amount needed to pay the higher retirement benefit under the life pension annuity or programmed withdrawal methods (i.e. the highest of 70% of the base salary or ARS 690 a month) may be withdrawn as a lump sum up to a maximum of ARS 115,000.

The base salary is the average of the member's gross salary, or the fixed reference income scale if self-employed, for the last ten years prior to claiming benefit. The maximum monthly gross salary considered for employees is ARS 4,800.

A minimum benefit (ARS 350 a month) is guaranteed by the state when a member also receives basic universal, compensatory or additional pension from the PAYG scheme. There is no maximum benefit in the funded scheme.

Members may receive anticipated retirement benefit before retirement age if their individual account balance is sufficient to provide a monthly benefit, paid under the life pension annuity or programmed withdrawal method, of 50% of the base salary or ARS 460 a month, whichever is the higher.

Retirement and anticipated retirement benefits are paid on a monthly basis plus a 13th additional monthly amount that is split and paid twice a year.

Benefit adjustment

SIJP funded scheme: The Executive Branch of the government (see section Regulatory and supervisory authorities) determines on an ad hoc basis the amount of any adjustment to the minimum guaranteed benefit and to the basic universal pension (PBU).

Retirement benefits under programmed withdrawals are adjusted monthly according to investment returns, and each year are recalculated according to the new beneficiaries' life expectancy. Life pension annuities are adjusted in different ways depending on the individual contracts, although basically retirement insurance companies share a given proportion of the returns in excess of the technical rate used to determine the benefits.

Survivors

Benefit qualifying conditions

SIJP funded scheme: Survivor benefit is paid whether the deceased was an active worker or a retirement or disability beneficiary.

Eligible survivors are the spouse, or companion who has cohabited with the deceased for 5 years, and/or the children up to age 18 (for life if disabled before age 18). In the absence of the above, the individual account balance is paid according to judicial decision.

Survivor benefits are paid if the deceased was either a regular contributor or an entitled irregular contributor.

Members are considered as regular contributors if they fulfil the minimum contribution requirement for the PAYG scheme retirement benefit (i.e. 30 years) or they have paid 30 months of contributions in the 36 months preceding date of death.

Members are considered as entitled irregular contributors if they fulfil 50% of the minimum contribution requirement for the PAYG scheme retirement benefit (i.e. 15 years) or they have paid 12 months of contributions in the 60 months preceding the date of death or they have paid 18 months of contributions in the 36 months preceding the date of death.

If members do not fulfil any of the above conditions they are considered as nonentitled irregular contributors.

Benefit structure

SIJP funded scheme: The amounts vary depending on whether the deceased was an active worker or was already in receipt of retirement or disability benefit.

Survivor benefit ranges from 70% to 100% of the retirement or disability benefit or of the reference income for an active worker. The reference income is equal to 70% of the base salary for regular contributors or 50% of the base salary for entitled irregular contributors.

The base salary is the average of the deceased member's gross salary, or the fixed reference income scale if self-employed, for the last five years prior to the date of death. The maximum monthly gross salary considered for employees is ARS 4,800.

The survivor benefit for each eligible survivor is calculated by applying the following percentages:

- 70% for the spouse or companion if there are no other eligible survivors;
- 35% each for the spouse and companion if both are eligible and there are no other eligible survivors;
- 50% for the spouse and/or companion and 20% for the child if there are no other eligible survivors;
- 50% for the spouse and/or companion and 20% for each child if there are only two children;
- 50% for the spouse and/or companion and the remaining 50% divided among the children if there are three or more.

If one of the eligible survivors loses the right to receive survivor benefit the above percentages must be recalculated.

The total survivor benefit paid to all eligible survivors cannot be more than 100% of the reference income for active workers or 100% of the retirement or disability benefit in payment to the deceased.

Survivor benefit is financed by the capital in the individual account of a deceased active worker and is supplemented by additional capital (i.e. complementary capital) from the insurance company if the individual account balance is insufficient based on actuarial methods. However, the state participates in the benefit financing for members born before 1963 (men) and 1968 (women). This is calculated by multiplying a coefficient (calculated by deducting the member's age from 1963 or 1968 as appropriate divided by 35) by the amount of the survivor pension (see benefit structure above) and by the ratio between the complementary capital and the necessary technical capital (the calculation of both is specified in law). The element financed by the state is paid by ANSES.

Survivor benefit is paid on a monthly basis plus a 13th additional monthly amount that is split and paid twice a year.

A minimum benefit (ARS 350 a month) is guaranteed by the state in the case that the deceased was receiving basic universal, compensatory or additional pension from the PAYG scheme or in the case that the deceased was an active worker and the state participates in the financing of the survivor benefit (see above). There is no maximum benefit in the funded scheme.

If there are no eligible survivors the individual account balance is paid to the member's heirs.

Benefit adjustment

SIJP funded scheme: The Executive Branch of the government (see section Regulatory and supervisory authorities) determines on an ad hoc basis the amount of any adjustment to the minimum guaranteed benefit and to the basic universal pension (PBU).

Life pension annuities are adjusted in different ways depending on the individual contracts, although basically retirement insurance companies share a given proportion of the returns in excess of the technical rate used to determine the benefits.

Disability

Benefit qualifying conditions

SIJP funded scheme: Disability benefit is only paid to members under retirement age where work capacity is reduced by at least 66%. There are no partial disability benefits.

Disability benefit is paid if the member is either a regular contributor or an entitled irregular contributor.

Members are considered as regular contributors if they fulfil the minimum contribution requirement for the PAYG scheme retirement benefit (i.e. 30 years) or they have paid 30 months of contributions in the 36 months preceding the date of disability

Members are considered as entitled irregular contributors if they fulfil 50% of the minimum contribution requirement for the PAYG scheme retirement benefit (i.e. 15 years) or they have paid 12 months of contributions in the 60 months preceding the date of disability or they have paid 18 months of contributions in the 36 months preceding the date of disability.

If members do not fulfil any of the above conditions they are considered as nonentitled irregular contributors.

The reduction in the degree of work capacity must be certified by a Medical Commission. The Commission will issue a preliminary decision either awarding a disability pension or denying the request. Three years after the preliminary decision, the affiliate member will be recalled by the commission, which can then certify permanent disability benefit, extend the disability certification for two years or revoke its previous decision.

Benefit structure

SIJP funded scheme: Disability benefit is equal to 70% of the base salary if the disabled member is a regular contributor or 50% of the base salary if the disabled member is an entitled irregular contributor.

The base salary is the average of the member's gross salary, or the fixed reference income scale if self-employed, for the last five years prior to the onset

of disability. The maximum monthly gross salary considered for employees is ARS 4,800.

Disability benefit is financed by the capital in the member's individual account and is supplemented by additional capital (i.e. complementary capital) from the insurance company if the individual account balance is insufficient based on actuarial methods. However, the state participates in the benefit financing for members born before 1963 (men) and 1968 (women). This is calculated by multiplying a coefficient (calculated by deducting the member's age from 1963 or 1968 as appropriate divided by 35) by the amount of the disability pension (see above) and by the ratio between the complementary capital and the necessary technical capital (the calculation of both is specified in law). The element financed by the state is paid by ANSES.

Members who are considered as nonentitled irregular contributors receive 50% of the base salary financed only by their individual account balance until it is exhausted.

Disability benefit is paid on a monthly basis plus a 13th additional monthly amount that is split and paid twice a year.

A minimum benefit (ARS 350 a month) is guaranteed by the state when the state participates in the benefit financing (see above). There is no maximum benefit in the funded scheme.

Benefit adjustment

SIJP funded scheme: The Executive Branch of the government (see section Regulatory and supervisory authorities) determines on an ad hoc basis the amount of any adjustment to the minimum guaranteed benefit and to the basic universal pension (PBU).

Life pension annuities are adjusted in different ways depending on the individual contracts, although basically retirement insurance companies share a given proportion of the returns in excess of the technical rate used to determine the benefits.

Protection of Rights

Protection of Assets

SIJP funded scheme: The pension fund assets held in individual accounts are the exclusive property of the respective affiliate members and must be kept separately from the assets of the pension fund administrator (AFJP).

Members who have made contributions to the PAYG scheme may receive compensatory pension if contributions were made before 1994 and additional pension if contributions were made between 1994 and the date that the member opted to be a member of the funded scheme.

Financial and Technical Requirements / Reporting

SIJP funded scheme: Pension fund administrators (AFJPs) must send their accounts quarterly to the Superintendence of AFJPs. The accounts must contain the balance sheet, the income statement, statement of changes in assets, the cash flow positions and the technical notes.

AFJPs must report daily to the Superintendence of AFJPs about the pension fund position and legal reserves.

AFJPs must send to the Superintendence of AFJPs an independent actuarial report containing the actuarial information used to calculate the necessary technical capital, the additional capital which will need to be paid by the state and the present values for retirement benefits paid through programmed withdrawals.

If an AFJP does not comply with the requirements, the Superintendence may impose sanctions.

Whistleblowing

SIJP funded scheme: No legal rules.

Standards for service providers

SIJP funded scheme: Pension fund administrators (AFJPs) designate an external auditor that must be a Certified Public Accountant. The audit requirement

consists of a limited audit report on quarterly AFJP and pension fund balance sheets and a full audit report on the annual balance sheets. Pension fund accounting and AFJP accounting must be kept separately.

AFJPs must obtain an annual report from an independent Certified Actuary, and submit it to the Superintendence together with the AFJP's and pension fund's annual balance sheets. The report certifies matters related to the actuarial correctness of the calculations of pensions, disability and survivor benefits.

Custodians must be financial institutions authorized by the Central Bank to act as such. They cannot belong to the same financial conglomerate as the AFJP.

Fees

SIJP funded scheme: Each pension fund administrator (AFJP) determines its own fee structure and must submit it to the Superintendence of AFJPs for approval. Changes in fees charged enter into force 90 days after they have been authorized by the Superintendence.

On average AFJPs charge fees of 2.514% (discounted from the contributions) of the contributory salary, of which 1.043% is for administration and 1.471% for life and disability insurance.

AFJPs are permitted by law to charge fees on voluntary contributions and on retirement benefit paid as programmed withdrawals. Currently they do not charge fees on these.

AJJPs may introduce a fee discount scheme that depends on the period of membership of the same AFJP.

Winding up / Merger and acquisition

SIJP funded scheme: The dissolution of a pension fund administrator (AFJP) can only be authorized by the Superintendence of AFJPs for one of the following reasons:

- Noncompliance with the minimum capital and/or liquid reserves requirements;
- Failure to provide the minimum rate of return in the stipulated period; and
- Payments default.

In such a case, the Superintendence takes over the fund administration, asks for judicial intervention and requires members to transfer to another AFJP within 90 days.

If AFJP's pension fund assets cannot provide the minimum rate of return with its reserves (see section Asset management) it must be dissolved and the State must guarantee the payment.

Mergers or acquisitions of AFJPs must be authorized by the Superintendence of AFJPs and must not decrease the balances in the individual accounts or benefits in payment.

Bankruptcy: Insolvency Insurance / Compensation Fund

SIJP funded scheme: If a pension fund administrator (AFJP) becomes insolvent the Superintendence will authorize its dissolution. The Superintendence will take over the fund administration and members will transfer their individual accounts to another AFJP.

There is no legal requirement to buy insurance against low performance or insolvency of the fund or to establish a compensation fund to take over some liabilities in the case that the fund assets are insufficient.

Disclosure of information / Individual action

SIJP funded scheme: Pension fund administrators (AFJPs) must inform the public about the AFJPs' executive officers, balance sheet, results statement, fund balance, liquid reserves, fee structure, fund investment portfolio, custodians, and insurance company. This information must be updated regularly and available from their offices.

AFJPs must inform members, at least three times a year, about the transactions during the reporting period, fees actually charged, fund rate of return, average scheme fees and rate of return, and the

individual account balance at beginning and end of the reporting period.

Other measures

SIJP funded scheme: No legal rules.

Tax Treatment

Taxation of member contributions

SIJP funded scheme: Mandatory and voluntary contributions are tax-exempt.

Taxation of employer contributions

SIJP funded scheme: Tax-exempt.

Taxation of investment income

SIJP funded scheme: Tax-exempt.

Taxation of benefits

SIJP funded scheme: Taxed according to the general income tax rules.

Regulatory and Supervisory Authorities

Superintendence of AFJPs: regulates and supervises the operation of the funded scheme. It forms part of the Ministry of Work, Employment and Social Security and is financed by pension fund administrators' (AFJPs) contributions and sanctions.

According to regulations, AFJP must finance the Superintendence's expenses by making direct payments to the Superintendence in proportion to the mandatory contributions each AFJP collects. During the 12-month period ending June 2005, payments to the Superintendence represented 0.4% of contributions collected or 0.03% of members' salary.

The Superintendence has the powers and functions to:

- Authorize the establishment of AFJPs;
- Supervise that AFJPs meet the capital and asset level requirements;
- Supervise that AFJPs meet the liquid reserves requirement;
- Instigate and supervise the winding up of AFJPs;
- Regulate AFJPs' transfer procedures;
- Calculate the minimum rate of return for funds; and
- Impose sanctions on AFJPs in the case of violation of legal requirements.

The superintendent is designated by decree of the Executive Branch (which comprises the President and Vice-President of Argentina plus all other government ministers).

Superintendencia de Administradoras de Fondos de Jubilaciones y Pensiones
Calle Tucuman N° 500.
CP: C1049AAJ
Buenos Aires
República Argentina
Tel.(+54-11) 4320-5600
Fax: (+54-11) 4320-5600
Free line: 0800-333-0049
Internet: www.safjp.gov.ar

Bermuda

Exchange rate: USD 1.00 equals
1 Bermuda dollar (BMD).

Regulatory Framework

1999 (effective 1 January 2000): National Pension Plan (Occupational Pensions) Amendment Act; defines minimum accrual rates for defined benefit plans and introduces changes to the rules governing survivor benefits.

1998 (effective 1 January 2000): National Pension Plan (Occupational Pensions) Act; provides for the establishment, registration, regulation and supervision of mandatory private pension plans and defines minimum contribution rates.

Types of Schemes

Employers must provide for the membership of covered employees in a private pension plan by either:

- Sponsoring an occupational pension plan for their covered employees (employer-sponsored plan); or
- Participating in a pension plan offered by a financial institution (financial institution plan) in which case they affiliate their covered employees collectively to this plan.

Employer-sponsored plans may be established by single, or a group of, employers and may be defined benefit or defined contribution.

Financial institution plans must be defined contribution and may only be established by financial institutions that are:

- Banks licensed under the Banks Act 1969;
- Insurance companies registered under the Insurance Act 1978;
- Local trust companies licensed under the Trust Companies Act 1991;
- Any other companies which have obtained a corresponding approval from the Pension Commission.

All plans must be implemented through the establishment of a pension fund.

Both employers and employees may make voluntary additional contributions in accordance with plan rules.

Institutional Framework

Employer-sponsored plans: Employers must apply to the Pension Commission to register an occupational pension plan within 180 days of its establishment.

The plan rules must be attached to the application for registration and must regulate, among other issues, the:

- Procedure for appointing and removing the plan administrator and the custodian;
- Powers and duties of the plan administrator;
- Contributions;
- Benefit structure and formula;
- Circumstances under which the pension plan may be wound up and the method of allocating assets in this case;
- Asset management and the allocation of investment income;
- Information disclosure to plan members.

In addition, employers must submit information on:

- The plan administrator;
- The custodian.

The plan administrator must be one of the following:

- The sponsoring employer(s);
- A joint committee composed of one or more representatives of the sponsoring employers(s) and one or more representatives of the plan members and former plan members (the latter are legally defined as persons who are entitled to deferred pensions or who are in receipt of pensions from the plan);
- A committee solely composed of plan members and former plan members;
- A financial institution;
- Any other person that has obtained a corresponding approval from the Pension Commission.

The plan administrator manages the contribution and benefit administration.

Financial institution plans: Financial institutions must apply to the Pension Commission for approval to establish and offer a pension plan.

The financial institution that established the plan may be the plan administrator and manage the contribution and benefit administration.

Employers who opt to participate in a financial institution plan must submit evidence of such participation to the Pension Commission in the prescribed form.

Self-employment pension plans: Self-employed persons must apply to the Pension Commission to register a plan that is organized and administered to provide benefits in respect of the self-employment of a self-employed person. The plan has the same characteristics as that of an employer-sponsored plan, except that the only members of the plan are one or more self-employed persons in business together.

All plans: Plan administrators must exercise the care, diligence and skill in the administration of the pension plan that a person of ordinary prudence would exercise in dealing with the property of another person.

Plans must be implemented through the establishment of a pension fund.

Coverage

Covered population

All plans: Employers must provide for the coverage of all employees aged 23 or older who are Bermudian, or the husband or wife of a Bermudian and who have worked 720 hours or more for their employers in any calendar year.

Once employees have become members of a plan, they remain members even if they work less than 720 hours for their employer in a calendar year.

Employees who work for the government of Bermuda are not covered by the National Pension Plan (Occupational Pensions) Act 1998.

Self-employed persons must participate in a self-employment pension plan, a financial institution plan, or in a registered pension plan established for their employees, provided that they:

- are Bermudian, or the husband or wife of a Bermudian;
- are aged between age 23 and age 65;
- have earnings higher than BMD 20,000 per year.

Self-employed persons with earnings of BDM 20,000 or less per year may participate in a self-employment pension plan on a voluntary basis.

Enforcement of affiliation

All plans: Employers must submit proof to the Pension Commission that they either sponsor an occupational plan or participate in a financial institution plan.

Financing / Investment

Sources of funds

Member contributions

All plans: Employees must contribute 5% of pensionable earnings.

Pensionable earnings are defined as the average of the retiree's highest 60 monthly salaries during the 120 months before retirement (or, if the retiree has less than 60 months of contributions, the average salary calculated over the actual period of membership).

The maximum pensionable earnings for contribution purposes are BMD 200,000.

Self-employed persons must contribute 10% of declared earnings. The maximum legal contribution for the self-employed is BMD 5,000 per year. Voluntary contributions are allowed above this amount.

Employer contributions

All plans: Employers must contribute 5% of pensionable earnings.

Pensionable earnings are defined as the average of the retiree's highest 60 monthly salaries during the 120 months before retirement (or, if the retiree has less than 60 months of contributions, the average salary calculated over the actual period of membership).

The maximum pensionable earnings for contribution purposes are BMD 200,000.

Other sources of funds

All plans: Additional voluntary contributions may be made by employers, employees or self-employed persons.

Methods of Financing

All plans: Funded.

Asset Management

All plans: The plan administrator may manage the assets or contract the asset management out to an asset manager located in Bermuda or another jurisdiction.

The investment of assets must be done with the care, diligence and skill that a person of ordinary prudence would exercise in dealing with the property of another person (prudent person rule).

Assets must be kept by a custodian, approved under the Act.

Benefit provisions

Preservation, portability, transferability

All plans: Mandatory employer and employee contributions must vest after a maximum of two years.

Employees who terminate employment before contributions are vested receive:

- A refund of their own contributions plus interest at a prescribed rate in the case of defined benefit plans;
- A refund of their own contributions plus the actual interest earned on the investment of these contributions in the case of defined contribution plans.

Upon termination of employment before retirement, and if contributions are vested, employees must request the administrator to transfer them to one of the following:

- The pension fund of a new employer;
- An annuity provider for the purchase of a deferred life annuity payable from a date not earlier than the date the employee would have been entitled to receive pension payments;
- A prescribed retirement product (which is similar to an individual pension plan).

The amount of the transfer equals the cash value of their accrued benefits in the case of defined benefit plans or their accumulated contributions plus any investment earnings in the case of defined contribution plans.

No fee may be charged for the transfer.

In addition, employees may receive a refund of their own additional voluntary contributions. The vesting of additional employer voluntary contributions is subject to plan rules.

Retirement Benefits

Benefit qualifying conditions

All plans: There are no legal rules concerning a minimum retirement age. The normal retirement age must not be later than one year after age 65. Plan rules must provide for early retirement up to 10 years before the plan's normal retirement age. Members must also be allowed to defer retirement with or without continued benefit accrual.

Withdrawal of funds before retirement

All plans: Generally not permitted.

Benefit structure / formula

Employer-sponsored plans: May be defined benefit or defined contribution.

If defined benefit, the pension must accrue at a yearly rate of 1.25% of pensionable earnings.

Pensionable earnings are defined as the average of the retiree's highest 60 monthly salaries during the

120 months before retirement (or, if the retiree has less than 60 months of contributions, the average salary calculated over the actual period of membership).

If defined contribution, the pension depends on the amount of a retiree's accumulated capital.

Financial institution plans: Defined contribution.

Pensions depend on the amount of a retiree's accumulated capital.

Self-employment pension plans: Defined contribution.

Pensions depend on the amount of a retiree's accumulated capital.

All plans: All pensions must be paid for life.

Plans may provide for the payment of a lump sum to retirees if the cash value of their accrued benefit in the case of defined benefit plans, or their accumulated capital in the case of defined contribution plans, does not exceed 5% of the average employment income in the year preceding retirement (the average employment income is prescribed in regulations and was BMD 60,133 in 2005).

Plans may provide for a lump-sum payment to members whose life expectancy is considerably reduced due to a mental or physical disability.

Benefit adjustment

All plans: No legal rules.

Survivors

Benefit qualifying conditions

All plans: Survivor benefits are paid to a person who has been appointed as beneficiary by the deceased member.

Benefit structure

All plans: If a member has 2 or more years of plan membership and dies before retirement, the appointed beneficiary receives a lump sum of:

- The cash value of the deceased member's accrued benefits in the case of defined benefit plans;
- The deceased member's accumulated capital in the case of defined contribution plans.

The beneficiary may, subject to plan rules, opt for an immediate or deferred pension.

If an employee dies within 2 years of becoming a member of a pension plan, the appointed beneficiary receives a lump sum amounting to the contributions paid by the deceased employee.

Upon death after retirement, the benefit paid to the survivor (or estate of the member if no beneficiary appointed) shall not be less than the value of the deceased member's defined contribution account balance or the commuted value of the deceased member's defined benefit.

Disability

Benefit qualifying conditions

All plans: Any disability which is likely to reduce considerably a member's life expectancy. Additional disability benefits may be provided in the plan rules.

Benefit structure

All plans: The member may receive a lump-sum payment equal to contributions in a defined contribution plan or to the commuted value of benefit in a defined benefit plan for a life reducing disability.

Protection of Rights

Protection of Assets

All plans: Assets must be held in a pension fund separately from the assets of the sponsoring employer(s) in the case of employer-sponsored plans, and from the assets of the financial institution in the case of financial institution plans.

Pension fund assets must be held by an approved custodian.

Financial and Technical Requirements / Reporting

All plans: Plan administrators must submit yearly the following documents to the Pension Commission:

- A report on the pension plan;
- Financial statements of the pension fund.

The financial statements must consist of a statement of net assets and a statement of changes of net assets. If the pension fund assets exceed BMD 1 million, the financial statements must be audited and the auditor's report must be submitted to the Pension Commission together with the financial statements.

In addition, plan administrators must submit every 3 years to the Pension Commission:

- A report prepared by an actuary in the case of defined benefit plans;
- A report prepared by an auditor or an actuary in the case of defined contribution plans.

The Commission may require the administrator at any time to submit information proving that the pension plan is sufficiently funded.

Whistleblowing

All plans: Plan administrators are not considered to be in breach of any of their duties if they inform the Pension Commission of any matter that may affect the fair and proper administration of a pension plan or fund (e.g. if contributions are not paid in time).

Auditors must report to the plan administrator when, in the course of reporting on the financial statements, they become aware that there are circumstances indicating that there has or may have been noncompliance with legal requirements. The auditor must inform the Pension Commission if the matter is not being corrected by the plan administrator within thirty days.

Standards for service providers

All plans: Custodians must be financial institutions or trusts approved by the Pension Commission.

Custodians that are financial institutions must be:

- Banks licensed under the Banks Act 1969;
- Insurance companies registered under the Insurance Act 1978;
- Local trust companies licensed under the Trust Companies Act 1991;
- Any other companies which have obtained a corresponding approval from the Pension Commission.

Custodians that are trusts must be governed by a written trust agreement under which the trustees are:

- A financial institution as defined above;
- Three or more individuals approved by the Pension Commission to be trustees based on their experience and expertise.

Auditors must be entitled to practice as public accountants in Bermuda or be persons who have qualified as accountants by examination of one of the Institutes of Chartered Accountants of England and Wales, Ireland or Scotland, the Canadian Institute of Chartered Accountants or the American Institute of Certified Public Accountants.

Actuaries must have qualified as actuaries by examination of the Institute of Actuaries of England, the Faculty of Actuaries in Scotland, the Societies of Actuaries in the USA or the Canadian Institute of Actuaries, and be current members in good standing of one of these professional associations.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All plans: Employer-sponsored and self-employment pension plans may be wound up based on a proposal by the plan administrator or by order of the Pension Commission. Financial institution plans may be wound up based on a proposal by the financial institution or by order of the Pension Commission.

In cases where the administrator proposes to wind up a pension plan, it must notify in writing:

- The Pension Commission;
- Each member and former member of the plan;
- Each trade union that represents members of the plan.

The Pension Commission may order the winding up of a pension plan if:

- All or a significant part of the business of the

sponsoring employer is discontinued;
- The employer is insolvent or bankrupt;
- The Commission refuses to register a plan or cancels the registration;
- The employer does not make the legally prescribed contributions.

The Pension Commission may appoint a person to wind up the plan who must:

- Continue to administer the plan;
- Compile a list of assets and liabilities;
- Determine the rights of each member and former member;
- Define a procedure for allocating assets and the priorities for benefit payments.

The person winding up the plan must submit a report to the Pension Commission containing information on the above matters and provide all plan members and former members with a statement explaining, amongst other things:

- Their entitlement under the plan;
- The available benefit options;
- Information relating to contributions paid into the plan.

If a pension plan is wound up, the employer must pay all amounts that are due or that have accrued but have not yet been paid into the pension fund. Where the property of the employer is seized or sold upon court order, the proceeds of the sale of the property must not be distributed until the court has made provision for payment into the pension fund of any amount outstanding from the employer.

In the case of merger and acquisition of employers, members' accrued benefits or accumulated capital must be credited to the new pension plan and a corresponding transfer of assets made.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There is no requirement for plans to insure against financial loss, and no compensation fund exists. No government guarantee applies.

Disclosure of information / Individual action

All plans: Plan administrators must provide annually, or more frequently if required in the plan rules, each member with a statement containing information on the plan and on the member's accrued benefits or accumulated capital.

Plan members may lodge complaints with the Pension Commission concerning the administration of the plan.

Other measures

All plans: Any amendment to the plan rules must be notified to the Pension Commission within 90 days of the effective date of the amendment.

Tax Treatment

Taxation of member contributions

All plans: Not applicable.

Taxation of employer contributions

All plans: Mandatory employer contributions are exempt from payroll tax.

Taxation of investment income

All plans: Not applicable.

Taxation of benefits

All plans: Not applicable.

Regulatory and Supervisory Authorities

Pension Commission: An independently established corporate body which supervises and regulates employer-sponsored, financial institution and self-employment plans. Its main functions are to:

- Ensure compliance with legal requirements;
- Supervise the administration and funding of pension plans;

- Verify the payment of benefits;
- Investigate complaints relating to the administration of a pension plan.

The Pension Commission may order a person involved in the administration of a pension plan to take, or refrain from, any action in respect of the plan or its related pension fund if it believes that the administration is not in compliance with legal requirements. It may also order employers or administrators to provide any information that it deems necessary.

The Pension Commission may order an on-site inspection at any premises where documents concerning a pension plan may be kept in order to examine and ensure compliance with legal requirements.

The Pension Commission is under the supervision of the Ministry of Finance. The Commission's main source of financing comes from an annual grant from the government and fee income paid to it by plans.

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Bolivia

Exchange rate: USD 1.00 equals
8.07 bolivianos (BOB).

Regulatory Framework

2005: Law n° 3076; further establishes the attributions of the Superintendency of Pensions, Securities and Insurances (*Superintendencia de Pensiones, Valores y Seguros*).

2002: Bonosol Law (Law n° 2427); further regulates the establishment of the universal old-age benefit (Solidarity Bond "Bonosol") and a flat-rate universal death benefit.

1998: Law n° 1864; creates Superintendency of Pensions, Securities and Insurances (*Superintendencia de Pensiones, Valores y Seguros*).

1997: Decree n° 24469; sets guidelines for compliance with law n° 1732.

1996: Law of Pensions (Law n° 1732); creates the system of mandatory private pension schemes (*Seguro Social Obligatorio* - SSO) and the old-age assistance program (Solidarity Bond "Bonosol"), regulates the replacement of the previous PAYG scheme, the establishment and operation of pension fund administrators (*Administradoras de Fondos de Pensiones* - AFP), asset management, superintendency and the protection of rights.

Types of Schemes

All employers must formally affiliate their employees to a pension fund administrator (*Administradora de Fondos de Pensiones* - AFP) by filing affiliation forms with the respective AFP.

AFPs manage two types of funds: Individual Capitalization Fund (*Fondo de Capitalización Individual* - FCI) - which replaced the pay-as-you-go system - and the Collective Capitalization Fund (*Fondo de Capitalización Colectiva* - FCC).

Individual Capitalization Funds (FCIs) are defined contribution funds and assets are accumulated in individual accounts.

The Collective Capitalization Fund (FCC) provides an annual flat-rate universal old-age benefit (known as Bonosol) at age 65 and a flat-rate universal death benefit to residents who were age 21 or older at the end of 1995.

Affiliation to the *Seguro Social Obligatorio* (SSO) is mandatory for employees. Self-employed workers may contribute voluntarily.

All affiliate members may make additional voluntary contributions to their accounts or put all or part of their social benefits (payments made by employers, such as severance pay, compensation, etc. that are derived from labour rights) in the accounts, up to the maximum amount determined by law. Since 1 January 2000 each individual is free to choose an AFP without influence of their employers.

All contributors to the old pension system were automatically transferred to the individual capitalization system on 1 May 1997.

Institutional Framework

All schemes: For the moment, Individual Capitalization Funds (FCIs) and the Collective Capitalization Fund (FCC) are managed by the following two private pension fund administrators (AFPs):

- Futuro de Bolivia S.A. AFP (Zurich Financial Services); and
- BBVA Previsión AFP S.A. (Banco Bilbao Vizcaya Argentaria).

The establishment of an AFP is subject to the authorization of the Superintendency of Pensions, Securities and Insurances (*Superintendencia de Pensiones, Valores y Seguros*), through an international bidding process for the lowest service fee.

The pension law and the contracts between the AFPs and the Superintendency of Pension, Securities and Insurances established an exclusivity period of 5 years

for the management of the Pension Funds (May 1997-May 2002). After May 2002, it was intended to open up the market to new pension fund administrators. However, at the moment the initial conditions are maintained and the contracts have neither been renegotiated nor another tender process launched.

Applicants wishing to carry out AFP activities must comply with the following requirements:

- Have a legal personality in the Bolivian Republic as a limited company complying with the Commerce Code;
- Have the single corporate objective of managing and investing FCIs, FCC and paying benefits;
- Constitute and maintain the minimum paid-up capital of one million "special drawing rights - SDR" (*derechos especiales de giro* - DEG) represented by nominative stocks (1 DEG equals USD 1.45661 on 1 July 2005);
- Have the necessary infrastructure to carry out its activities; and
- Comply with other requirements that may be set in regulations.

There are no legal requirements concerning the existence or composition of a governing board of an AFP.

AFPs are responsible for the establishment and administration of pension funds and manage the collection of contributions from employers, employees and voluntary contributors.

AFPs must keep the pension funds' assets separate from their own finances.

Individual capitalization funds (FCIs): Affiliate members each have an individual account and all of them jointly own units in a portfolio, similar to a mutual fund. AFPs invest the joint resources held in the individual accounts, in compliance with maximum limits established by regulations and enforced by the Superintendency of Pensions, Securities and Insurances. AFPs are required to contract insurance policies for beneficiaries to cover disability and survivor benefits caused by both general and occupational risks.

Affiliate members cannot maintain individual accounts in more than one AFP.

Collective capitalization fund (FCC): AFPs pay the benefits derived from the FCC.

Coverage

Covered population

Individual capitalization funds (FCIs): All employees must become members of the mandatory private pension system (*Seguro Social Obligatorio* - SSO).

Membership is voluntary for the self-employed. Persons who do not have an employment relationship may affiliate to the mandatory private pension system on payment of their first contribution.

Collective capitalization fund (FCC): Bolivian citizens resident in the territory, who were age 21 years or older on 31 December 1995.

Enforcement of affiliation

Individual capitalization funds (FCIs): All contributors to the old pension system were automatically transferred to the individual capitalization system on 1 May 1997. All new entrants to the labour market since that date must affiliate to the new system and all currently employed persons that should have been affiliated to the old pension system, but were not, are required by law to be affiliated to the new system.

If after 10 days of formal employment relationship, the employee has not signed an affiliation contract with a pension fund administrator (AFP), the employer is required to affiliate him or her to the AFP that the employee chooses no later than 15 days after the formal employment relationship started.

AFPs are not allowed to refuse any request for affiliation from eligible persons.

Collective capitalization fund (FCC): The Superintendency of Pensions, Securities and Insurance registered eligible persons in the fund database at the start of the new system.

Financing / Investment

Sources of funds

Member contributions

Individual capitalization funds (FCIs): Employees contribute 12.21% of gross salary between the minimum national salary of BOB 440 per month (in 2005), and the maximum level of 60 times the minimum national salary. 10% is paid to the individual account, 1.71% for general disability and survivor benefits and 0.5% for the pension fund administrators' (AFPs) services.

Self-employed persons may voluntarily contribute 12.21% of their monthly declared income between the minimum national salary of BOB 440 (in 2005) and the maximum level of 60 times the minimum national salary. 10% is paid to the individual account, 1.71% for general disability and survivor benefits and 0.5% for the AFP's services.

Affiliate members may make additional voluntary contributions by arranging with employers or AFPs to deposit in their individual accounts an agreed amount and/or the "voluntary deposits of social benefits" (*Depósitos voluntarios de beneficios sociales*) in order to augment the balance in the individual account or increase the amount of the pension benefit.

Collective capitalization fund (FCC): None.

Employer contributions

Individual capitalization funds (FCIs): The mandatory employer contribution is 1.71% of the employee's monthly salary between the minimum national salary of BOB 440 per month (in 2005), and the maximum level of 60 times the minimum national salary for insurance to cover disability and survivor benefits resulting from occupational accidents or diseases.

The self-employed may voluntarily contribute 1.71% of their monthly declared income for insurance to cover disability and survivor benefits resulting from occupational accidents or diseases.

Collective capitalization fund (FCC): None.

Other sources of funds

Individual capitalization funds (FCIs): None.

Collective capitalization fund (FCC): The fund was established by transferring the government's 47.1% average share of the proceeds of the capitalization of the five largest state-owned enterprises at the time that the new pension system was established.

Methods of Financing

Individual capitalization funds (FCIs): Fully funded in individual accounts.

Collective capitalization fund (FCC): Financed only by the dividends earned on the portfolio of investments contained in the FCC.

Asset Management

Individual capitalization funds (FCIs): Pension fund administrators (AFPs) manage the assets of all pension funds that they administer. Asset management cannot be contracted to external asset managers.

Assets must be exclusively invested by the AFPs in authorized securities and financial markets according to legal restrictions for each asset class.

Of total pension fund assets invested:

- No more than 10% may be in securities of a single issuer or group of related issuers.
- No more than 40% of securities may pertain to the same issue or series (ownership concentration limit).

At least 95% of the pension fund assets must be held separate from the AFP by a custodian or trust entity authorized by the Superintendency of Pensions, Securities and Insurances.

Investments made by the AFP on behalf of FCIs are subject to limits set by type of instrument, by issuer, by risk level and by the liquidity of the instrument. Securities issued by the Bolivian Treasury and the Bolivian Central Bank are not subject to the limits.

The Central Bank Executive Board sets the upper limit on foreign securities. This limit cannot be less than 10% or more than 50% of the portfolio of each

FCI. The rating of securities is made by specialized agencies in compliance with regulations.

AFPs must not have any connection to the custodian or rating agencies of the FCIs that they administer. Funds cannot buy securities from their managing AFP nor may they invest in securities issued or guaranteed by firms directly or indirectly related to the directors, executives or companies related to the AFP.

The pension normative requires AFPs to invest the assets of the funds they manage with due regard to balancing risk with achieving adequate profit.

There is no legal minimum guaranteed rate of return.

AFPs charge an annual asset management fee of between 0% and 0.2285% depending on the value of the fund. AFPs can also deduct transaction and custody costs from funds.

Collective capitalization fund (FCC): The fund consists entirely of shares in the former 5 largest state-owned enterprises and from the liquidity of the dividends paid by these companies. Pension Fund Administrators (AFPs) manage the assets of the FCC.

There is no legal minimum guaranteed rate of return.

Benefit provisions

Preservation, portability, transferability

Individual capitalization funds (FCIs): Affiliate members may transfer their account from one pension fund administrator (AFP) to another:

- After having made at least 12 continuous monthly contributions to the same AFP;
- If changing employer or moving to another town in which the original AFP does not provide a service;
- If the AFP raises its fees or contributions to cover general risk of disability and death.

AFPs pays the benefits in the national territory of Bolivia through the banking system network.

AFPs are not permitted to charge a fee to transfer an affiliate member's capital to another AFP.

Retirement Benefits

Benefit qualifying conditions

Individual capitalization funds (FCIs): Retirement benefits may be paid by pension fund administrators (AFPs) or insurance companies when the affiliate member fulfills one of the following conditions:

- The individual account balance is sufficient to finance a pension at least equal to 70% of the base salary, regardless of age;
- At age 65 years, regardless of the balance in the individual account, in which case the pension is calculated on the amount in the individual account at the time of retirement.

Affiliate members age 65 years or older who have not accumulated sufficient funds in their individual accounts to finance a pension equal or superior to 70% of the national minimum salary of BOB 440 per month (in 2005) do not qualify for the retirement pension. In this case, the AFP pays a minimum monthly payment equivalent to 70% of the affiliate member's previous base salary until the accumulated funds in the individual account are exhausted. If they meet the required qualifying conditions they also receive the Bonosol annuity (see collective capitalization fund below).

Base salary is calculated as follows:

- If contributions made for 5 or more years, the base salary is the average of gross earnings, or declared income if self-employed, on which contributions were paid for the last 5 years.
- If contributions made for less than 5 years, the base salary is the average of gross earnings, or declared income for the self-employed, on which contributions were paid.

There is no government guarantee of a minimum pension.

Collective capitalization fund (FCC): Bonosol is payable at age 65 to all Bolivian citizens who were age 21 years or older at the end of 1995. Members who are younger than age 65 are not eligible for Bonosol, but are eligible for the flat-rate universal death benefit.

Withdrawal of funds before retirement

Individual capitalization funds (FCIs): Withdrawals before retirement are not allowed in the case of mandatory contributions.

Collective capitalization fund (FCC): Not applicable.

Benefit structure / formula

Individual capitalization funds (FCIs): Retirement pension is paid based on the amount accumulated in the affiliate member's individual account.

Retirees can decide on two methods to receive benefit:

- Life Pension Annuity (*Seguro Vitalicio*) - in which case members transfer their accumulated capital in the individual account to a life insurance company;
- Variable Monthly Life Payments (*Mensualidad Vitalicia Variable*) - in which case programmed withdrawals are paid by the pension fund administrator (AFP). Programmed withdrawals are recalculated annually according to the Expected Profitability Rate (*Tasa de Rentabilidad Esperada*) (5% in 2005) and the longevity of the group of people who chose this method.

Collective capitalization fund (FCC): Defined benefit.

Bonosol is BOB 1,800 per person per year (fixed for the period 1 January 2003 to 31 December 2007) and is paid in one single payment.

Benefit adjustment

Individual capitalization funds (FCIs): At the beginning of each year the Central Bank provides the adjustment factor that must be applied to retirement, disability and survivor benefits, that indexes the pension amount to the inflation rate.

Collective capitalization fund (FCC): The amount of Bonosol is fixed at BOB 1,800 per person per year until 31 December 2007. Thereafter, the amount will be set by the Superintendency based on actuarial calculations.

Survivors

Benefit qualifying conditions

Individual capitalization funds (FCIs): Survivor benefits for general risk are payable if an affiliate member is receiving retirement benefit or, if under age 65, the affiliate member:

- Has made at least 60 contributions to the social security system (either the old or the new system), or have made contributions during 50% of the period between the date of the first contribution to the new scheme and the date of death; and
- Died while paying contributions, or within 12 months after ceasing to pay; and
- Has paid at least 18 contributions during the last 36 months before the date of death. This qualifying condition is only required in cases where death was not caused by an accident.

In preferential order, eligible survivors are:

First: Spouse or companion, as long as he or she does not remarry or engage in a cohabitation relationship, children (even if not yet born) up to age 18 (25 if students or for life if disabled before age 25).

Second: In the absence of the above, parents and brothers or sisters under age 18 if nominated by the affiliate to the pension fund administrator (AFP) or the insurance company when concluding the agreement for the Life Pension Annuity (*Seguro Vitalicio*) or Variable Monthly Life Payments (*Mensualidad Vitalicia Variable*).

Third: Any other person nominated by the affiliate member to the AFP or the insurance company when concluding the agreement for the Life Pension Annuity (*Seguro Vitalicio*) or Variable Monthly Life Payments (*Mensualidad Vitalicia Variable*). Third order beneficiaries are only entitled to survivor benefit if the deceased was receiving retirement benefit.

Survivor benefit for occupational risk is payable if the death of an affiliate member was caused by an occupational accident or disease and the member was employed at the date of death; coverage extends up to 6 months after the member's employment ceases. Occupational survivor benefits are payable to first and

second order eligible survivors only.

No affiliate member can receive survivor benefit for both general and occupational risk at the same time.

Collective capitalization fund (FCC): No survivor benefit.

Benefit structure

Individual capitalization funds (FCIs): When an affiliate member dies the capital accumulated in the individual account from mandatory contributions is merged into the general or occupational risk insurance as appropriate. If the capital accumulated in the individual account of the deceased is sufficient to finance the survivor benefit prescribed by law, any voluntary contributions or voluntary deposits of social benefits may be used to increase the survivor benefit or may be withdrawn as minimum withdrawals.

The survivor benefit for each beneficiary is calculated by applying the following percentages to the base pension of the affiliate member:

- 80% for the surviving spouse or companion without children;
- 60% for the surviving spouse or companion with 1 eligible child and 20% for the child. When the benefit for the child finishes the spouse or companion percentage increases to 80%;
- 50% for the surviving spouse or companion with 2 or more eligible children. The remaining 50% is distributed in equal parts between each eligible child. When the benefit for the child finishes the spouse or companion percentage increases to 80%;
- 100% distributed in equal parts between each eligible child in the absence of a surviving spouse or companion;
- 20% for each parent and 10% for each brother or sister up to the age 18 in the case that they were expressly nominated and in the absence of first order beneficiaries; and
- In the absence of first and second order beneficiaries, any third order beneficiaries (see section Benefit qualifying conditions) each receive the percentage stipulated by the deceased.

The sum of the percentages for the surviving spouse or companion and children cannot be more than 100% of the base pension.

The sum of the percentages for the second and third order beneficiaries cannot be more than 60% of the base pension.

Base pension is calculated as follows:

- 70% of the base salary of an active affiliate member who died from general risk;
- 100% of the disability benefit of a beneficiary who was receiving general disability benefit at the date of death;
- 70% of the retirement benefit of an affiliate member who was receiving retirement benefit at the date of death;
- 100% of the base salary of an active member who died from occupational risk and was not already receiving occupational disability benefit at the date of death;
- 100% of the base salary plus the occupational disability benefit of an active member who was receiving occupational disability benefit at the date of death.

Base salary is calculated as follows:

- If contributions made for 5 or more years, the base salary is the average of gross earnings, or declared income if self-employed, on which contributions are paid for the last 5 years.
- If contributions made for more than 18 months but less than 5 years, the base salary is the average of gross earnings, or declared income for the self-employed, on which contributions are paid for the last 18 months if the death is caused by sickness.
- If death occurs as a result of a general or occupational risk accident, and the affiliate member has contributed less than 5 years, the base salary is average gross earnings, or declared income for the self-employed, on which contributions were paid.

Maximum base salary is 60 times the national minimum salary of BOB 440 per month (in 2005).

Eligible survivors of an active affiliate member who did not fulfil the requirements for survivor benefit from general risk may use the accumulated capital in the deceased's account to make withdrawals of at least

70% of the national minimum salary of BOB 440 per month (in 2005).

In addition to the general or occupational survivor benefit, survivors receive at the date that the deceased would have attained age 65 any "compensation of contributions" due to the deceased. Compensation of contributions is payable to those who are not eligible for a pension under the old PAYG system and who made at least 60 monthly contributions to the PAYG system before the start of the new mandatory private pension system. The maximum amount payable is 20 times the national minimum salary of BOB 440 per month (in 2005).

A lump-sum payment of the equivalent in BOB of USD 212 for funeral expenses may be paid by the general or occupational risk insurance as appropriate to the person who paid for the deceased member's funeral.

Collective capitalization fund (FCC): No survivor benefit.

If the deceased was age 65 or older, or was not an affiliate member of an FCI (i.e. age 21 years or older on 31 December 1995), a lump-sum payment of BOB 900 (50% of Bonosol) for funeral expenses may be paid to the person who paid for the deceased's funeral. The benefit must be claimed within 18 months of the date of death.

Disability

Benefit qualifying conditions

Individual capitalization funds (FCIs): General disability benefit is only paid where work capacity is reduced by at least 60%. There is no partial disability benefit.

To receive general disability benefit affiliate members must:

- be under age 65; and
- Have made at least 60 contributions to the social security system (either the old or the new system), or have made contributions during 50% of the period between the date of the first contribution to the new scheme and the onset of disability; and
- Have been declared disabled while paying contributions, or within 12 months after ceasing to pay; and
- Have paid at least 18 contributions during the last 36 months before the onset of disability. This qualifying condition is only required in cases where disability was not caused by an accident.

Occupational disability benefit is payable to an affiliate member when disability is caused by an occupational accident or disease and hinders the affiliate member from carrying out his or her usual work.

Disability caused by occupational risks can be total or partial disability for loss of work capacity over 10%.

No affiliate member can receive a pension for both general and occupational disability at the same time.

Collective capitalization fund (FCC): No disability benefit.

Benefit structure

Individual capitalization funds (FCIs): General disability benefit is equal to 70% of the affiliate member's base salary. In addition, 10% of the base salary is paid in to the affiliate member's individual account.

Base salary is calculated in the same way as for general survivor benefit. The pension is paid until the affiliate member recovers from the disability, reaches age 65 and starts to receive retirement pension, or dies.

Occupational disability benefit is paid as a percentage of the affiliate member's base salary, according to the percentage of disability (see below). In addition, 10% of the base salary is paid in to the affiliate member's individual account.

- Global compensation is paid when the percentage of disability is more than 10% but 25% or less. The lump-sum benefit is equal to 48 times the base salary multiplied by the percentage of disability;
- Partial disability benefit is paid monthly when the disability percentage is more than 25% but less than 60%. The amount of benefit is equal to the base salary multiplied by the percentage of disability;

- Total disability benefit is paid monthly when the disability percentage is 60% or more. The amount of the benefit is equal to the base salary.

Base salary is calculated in the same way as for occupational survivor benefit. The benefit is paid until the affiliate member recovers from the disability, reaches age 65 and starts to receive retirement pension, or dies.

Collective capitalization fund (FCC): No disability benefit.

Protection of Rights

Protection of Assets

All schemes: The pension fund assets are the exclusive property of the affiliate members and must be kept separately from the assets of the pension fund administrator (AFP).

At least 95% of pension fund assets must be held by a custodian.

Financial and Technical Requirements / Reporting

All schemes: Pension fund administrators (AFPs) must send their accounts to the Pensions Superintendency, with the periodicity it determines. AFPs must send:

- Balance sheet;
- Income statement;
- Proof of the sources and application of funds;
- Explanatory notes for the funds it administers.

AFPs must follow the accounting standards established by the Executive Branch (comprising the President, Vice-President and all other government ministers), maintain the consistency, integrity and accuracy of the financial statements of the funds, and report the flow of funds and their updated value and quotas. The quota-value was established by the Superintendency when the scheme began as a reference for calculating daily profitability.

Whistleblowing

All schemes: The custodian sends a report every day to the Superintendency of Pensions containing all the information on pension fund assets that are held by the custodian. The Superintendency verifies the custodian's report with the AFP´s report. If there is any inconsistency between the two reports, the Superintendency will require an explanation from the AFP.

The Superintendency establishes yearly the minimum requirements that the external audit must cover. However, external auditors are not legally required to inform the Superintendency if they become aware of any circumstances contrary to legal requirements.

Standards for service providers

All schemes: Entities that provide health care services and short-term social security benefit are not allowed to provide services related to long-term social security benefits.

Fees

All schemes: Pension fund administrators (AFPs) charge a commission of 0.5% of the contributory salary (discounted from contributions) for affiliation, data processing, and benefit administration. They also charge 11% of the amount of insurance premiums collected for collection services.

AFPs charge between 0% and 0.2285% for asset management services depending on the value of the funds. They may also deduct transaction and custody costs from funds. There is no legal maximum fee.

Winding up / Merger and acquisition

All schemes: The dissolution of a pension fund administrator (AFP) can only be authorized by the Superintendency of Pensions, Securities and Insurances resulting from reasons established in the Commerce Code. When necessary, the Superintendency of Pensions, Securities and Insurances will issue an administrative resolution to cancel the AFP's license and transfer the funds in compliance with law, or in the case of merger, to

arrange the integration of the same kind of funds managed by the AFPs.

Bankruptcy: Insolvency Insurance / Compensation Fund

All schemes: In the case of insolvency of an insurance company that provides annuities, all the investment assets that support the Mathematic Reserves, should be transferred to another life insurance company.

Disclosure of information / Individual action

Individual capitalization funds (FCIs): Pension fund administrators (AFPs) must send to affiliate members, according to the standards and periodicity determined by the Pensions Superintendency, a report about the individual accounts containing information about:

- Period of time to which it refers;
- Data and address of the affiliate member;
- Account balances;
- Flow of funds and quotas;
- Return on investments; and
- Fees paid.

Affiliate members may complain about an AFP to the Pensions Superintendency which will analyze the case and present a final resolution that is mandatory for the AFP. If the Pensions Superintendency becomes aware of any circumstances contrary to legal regulations, then it will impose a financial penalty on the AFP.

Decree n° 24469 establishes in article 285 that affiliate members can take civil or criminal action against AFPs and other service providers who fail in their duties or contravene the Pensions Law.

Other measures

All schemes: The government pays a "compensation of contributions" to those who made at least 60 contributions to the PAYG system prior to the start date of the new mandatory private pension system. The compensation is paid monthly for life by the pension fund administrator (AFP) or insurance company from the date that the affiliate member attains age 65. If the affiliate member dies before age 65, it is paid to the survivor for life from the date the affiliate member would have reached age 65. The maximum amount of compensation of contributions is 20 times the national minimum salary of BOB 440 per month (in 2005). This benefit is not payable if the affiliate member is also eligible to a pension under the old PAYG system.

There is no guarantee of a minimum yield profit on the investment of funds, or of the pensions in case of bankruptcy of AFPs, or of payment of the Bonosol if the collective capitalization fund becomes insolvent.

Tax Treatment

Taxation of member contributions

All schemes: Mandatory and additional voluntary contributions are tax-exempt.

Taxation of employer contributions

All schemes: Tax-exempt.

Taxation of investment income

All schemes: Taxed according to the general income tax rules.

Taxation of benefits

All schemes: Tax-exempt.

Regulatory and Supervisory Authorities

Financial Regulatory System: regulates, controls and supervises the activities of persons and entities relating to mandatory long-term social security benefits, to banks and financial institutions and to insurance companies and the securities market. The Financial Regulatory System is under the Ministry of the Treasury and Economic Development and is governed by the General Superintendency.

Sistema de Regulación Financiera
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Superintendence of Pensions, Securities and Insurances: Oversees the payment of benefits, collection of contributions, the security, solvency, liquidity, investment returns and other activities related to pension fund administrators (AFPs), pension funds, and other related entities. Superintendency activities are financed through the payment by AFPs of a maximum regulation fee of the higher of 0.5% of the total assets of the pension funds managed or 75% of the AFP's minimum capital required by law.

The Superintendence of Pensions, Securities and Insurances has the following functions to:

- Enforce compliance with law;
- Regulate, control and supervise long-term mandatory social security benefits and the benefits from capitalization;
- Grant, modify and renew authorizations of AFPs;
- Watch over the provision of services of the entities under its jurisdiction;
- Supervise and inspect AFPs;
- Require financial reports; and
- Determine fees for benefits of risk.

The Superintendency of Pensions, Securities and Insurances may exceptionally receive financial support from the General Treasury of the Nation.

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Chile

Exchange rate: USD 1.00 equals 582.60 pesos (CLP).

Regulatory Framework

2004: Law No. 19,934; modifies the retirement option structure introducing a new method of calculation of life annuities.

Regulations of Decree-Law 3,500: further regulate asset management, the operation of AFPs, contribution collection and enforcement, and the transfer of accumulated capital from one AFP to another.

1980: Decree-Law 3,500; creates the system of mandatory private pension schemes, regulates the establishment and operation of pension fund administrators (*Administradoras de Fondos de Pensiones* - AFPs), asset management and protection of rights.

1980: D.F.L.No. 101 of the Ministry of Labour and Social Provision; establishes the Superintendence of AFPs (*Superintendencia de Administradoras de Fondos de Pensiones* - SAFP) and regulates its structure, functions and powers.

Types of Schemes

All covered persons must become members of a mandatory private pension scheme by filing a membership application with a pension fund administrator (*Administradora de Fondos de Pensiones* - AFP).

Mandatory private pension schemes are defined contribution and assets are accumulated in individual accounts.

Covered persons may choose any AFP for membership without influence of their employers.

Each member may make voluntary additional contributions that are accumulated in a voluntary savings account with the same AFP chosen for the management of mandatory contributions, or in a deposit account with an institution authorized to offer voluntary savings plans. Banks and financial institutions, mutual fund managers, life insurance companies, investment fund managers and housing fund managers may be authorized to offer voluntary savings plans. Employers may also conclude an agreement with their employees to make voluntary contributions (known as agreed deposits) to either the mandatory contribution account of the employee with the AFP or to a voluntary savings plan. While members may withdraw their own voluntary contributions before retirement, agreed deposits must be used at retirement to increase retirement benefits. The capital accumulated in a voluntary savings plan by means of agreed deposits must therefore be transferred at retirement to the employee's AFP.

Institutional Framework

Mandatory personal scheme: Pension fund administrators (AFPs) must be established as public limited companies with the single business aim of establishing and managing open pension funds.

The establishment of an AFP is subject to the authorization of the Superintendence of Pension Fund Administrators (*Superintendencia de Administradoras de Fondos de Pensiones* - SAFP).

The founders must submit a prospectus to the Superintendence together with the application for authorization and a letter of presentation, a feasibility study and the draft by-laws.

The feasibility study must cover:

- A definition of the business and its aim;
- Details of the owners and the structure of contributions to the proposed AFP's minimum capital;
- A strategic business analysis;
- An economic evaluation of the business project;
- A schedule of activities.

AFPs must upon their establishment have a minimum capital of 5,000 Foment Units (*Unidad de Fomento*

- UF). The minimum capital requirement is increased to 10,000 UF, 15,000 UF and 20,000 UF once the membership of an AFP reaches 5,000, 7,500 and 10,000 respectively.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Directors of an AFP that participate in asset management decisions must not be directors of banks, stock markets, investment fund or mutual fund managers or certain other types of financial institutions.

The main regulations regarding conflicts of interests between the AFP management and the pension funds that they manage are:

- Reduction of the investment limits for instruments issued by companies related to the AFPs;
- Obligation to invest the AFP's reserves in its pension fund in order to eliminate the conflict of interests implied in managing two separate investment portfolios;
- Prohibition on dissemination of information regarding fund investment decisions;
- Code of conduct with a description of conducts that have an adverse effect on the pension funds;
- Regulations about the AFP's vote in companies that it has share participation;
- Rules for the election of AFP's managers;
- Implementation of internal control systems, which must be audited externally, in order to ensure compliance with rules on conflicts of interests.

Each AFP must establish and manage four open pension funds (types B, C, D and E) and may, on a voluntary basis, establish one additional fund (type A). Different investment restrictions apply to different types of funds (see section Asset management).

APFs manage the benefit administration if the programmed withdrawals or temporary income options are chosen (see section Retirement benefits, Benefit structure / formula). If an annuity option is chosen a life insurance company pays the benefits.

AFPs must contract an insurance policy with an authorized insurance company to cover disability and survivor benefits.

Coverage

Covered population

Mandatory personal scheme: Private- and public-sector employees must become members of a mandatory private pension scheme.

Membership is voluntary for workers who started their first employment before 1 January 1983 and for the self-employed.

Enforcement of affiliation

Mandatory personal scheme: Employers must ensure that their employees affiliate to a pension fund administrator (AFP). Sanctions are applied to employers who do not comply with this obligation.

AFPs must accept any application for membership from covered persons.

Financing / Investment

Sources of funds

Member contributions

Mandatory personal scheme: Employees must contribute 10% of salary.

Self-employed persons may contribute 10% of declared income for the purpose of making contributions to an AFP. There are no legal rules concerning the calculation of income to be declared by self-employed persons.

The minimum monthly earnings (declared income for the self-employed) for contribution purposes are equal to the minimum monthly wage of CLP 127,500; CLP 95,927 for insured persons younger than age 18 or older than age 65.

The maximum monthly earnings (declared income for the self-employed) for contribution purposes are equal to CLP 1,049,460 (60 Foment Units - *Unidad de Fomento*).

An additional amount of 0.75% (on average) of salary is charged by the AFP to finance survivor and disability benefits and 1.55% (on average) for management expenses.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Employer contributions

Mandatory personal scheme: Employers must contribute 1% or 2% of salary for employees working under arduous conditions as defined by the National Ergonomic Commission (*Comisión Ergonómica Nacional*).

This contribution may be reduced by the National Ergonomic Commission depending on the conditions of a specific type of work.

The minimum monthly earnings for contribution purposes are equal to the minimum monthly wage of CLP 127,500; CLP 95,927 for insured persons younger than age 18 or older than age 65.

The maximum monthly earnings for contribution purposes are equal to CLP 1,049,460 (60 Foment Units - *Unidad de Fomento*).

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Other sources of funds

Mandatory personal scheme: The government contributes towards the guaranteed minimum pension.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

Pension fund administrators (AFPs) must finance disability and survivor benefits through insurance contracts with authorized insurance companies.

Asset Management

Mandatory personal scheme: Each pension fund administrator (AFP) must establish four pension funds (types B, C, D and E) and may optionally establish one additional fund (type A). AFPs usually establish all five types of funds. Different investment restrictions apply to funds and they must have different investment portfolios with different risk levels. Type A funds may carry the highest, and type E funds the lowest risk. Members may choose up to two funds offered by their AFP to diversify their capital. Members aged 56 (men) and aged 51 (women) or older must not choose a type A fund.

If members do not opt for a fund, the AFP must allocate their capital according to their age: capital of male and female members up to age 35 must be allocated to a type B fund, capital of male members between ages 36 and age 55 and female members between age 36 and age 50 must be allocated to a type C fund and capital of male members aged 55 or more and female members aged 50 or more must be allocated to a type D fund.

AFPs may either manage the fund assets themselves or contract the asset management to an asset management company established as a public limited company for the sole purpose of managing pension fund assets. Asset management companies must be authorized by the Superintendence and comply with a minimum capital requirement of 20,000 Foment Units (*Unidad de Fomento)*.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Fund assets may only be invested in securities approved by the Risk Classification Commission that is an independent institution (seesection Regulatory and supervisory authorities). Investment in shares issued by insurance companies, mutual fund or investment fund managers and certain other financial institutions is prohibited.

Quantitative investment restrictions apply for each asset class and vary for the different types of funds.

These investment restrictions are determined by the Central Bank of Chile based on a report by the Superintendence within a framework defined by law. A maximum of 80% and a minimum of 40% of type A fund assets, a maximum of 60% and a minimum of 25% of type B fund assets, a maximum of 40% and a minimum of 15% of type C fund assets, a maximum of 20% and a minimum of 5% of type D fund assets must be invested in equities. Investment in equities is prohibited for type E funds. Special regulations apply to overseas investments.

Assets must be managed with due consideration to liquidity, concentration, risk and diversification as stipulated by law.

AFPs must credit at least a monthly minimum return to the individual accounts. The amount of the minimum return depends on the type of fund.

For type A and B funds the minimum rate of return must be the lower of the:

- Average real annualized rate of return over the last 36 months of all funds of the same type minus 4 percentage points; or
- Average real annualized rate of return over the last 36 months of all funds of the same type minus the absolute value of 50% of this average rate.

For type C, D and E funds the minimum rate of return must be the lower of the:

- Average real annualized rate of return over the last 36 months of all funds of the same type minus 2 percentage points; or
- Average real annualized rate of return over the last 36 months of all funds of the same type minus the absolute value of 50% of this average rate.

At least 90% of the assets of each pension fund must be held by a custodian that must open separate accounts for each type of fund established by an AFP.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Members may change their pension fund administrators (AFPs) any time.

AFPs can charge a fee for the transfer of a member's capital to another AFP. (Currently no AFP charges a fee for the transfer.)

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: Retirement age is 65 for men and 60 for women.

Early retirement is possible at any age provided that the retirement benefit would equal or exceed (since August 2005):

- 55% of the member's revalued average salary or declared income in the 10 years prior to early retirement (70% since August 2010); and
- 130% of the minimum old-age pension (150% since August 2007).

The state guarantees a minimum old-age pension from age 65 (men) and age 60 (women) to retirees with at least 20 years of contributions if the sum of their pensions, income and taxable wages is less than the minimum pension (see section Benefit structure / formula). The receipt of unemployment benefits is considered as a contribution period for up to 3 years.

Withdrawal of funds before retirement

Mandatory personal scheme: Not permitted in the case of mandatory contributions or agreed deposits. Additional employee voluntary contributions may be withdrawn before retirement.

Benefit structure / formula

Mandatory personal scheme: Defined contribution.

Retirees may choose between four benefit options:

- Immediate life annuity in which case they transfer their accumulated capital to a life insurance company of their choice in order to purchase a life annuity (this option is only allowed if the annuity equals at least the minimum old-age pension);
- Temporary income with a deferred life annuity in which case only a part of their accumulated capital is transferred to a life insurance company of their choice in order to purchase a life annuity payable from an agreed date, and the remaining capital is

used to provide a temporary income until this date. The deferred annuity must not be lower than 50% of the first payment of the temporary income and not exceed 100% of this payment;
- Programmed withdrawals in which case benefits are paid by the AFP and charged against the balance of their individual accounts. Programmed withdrawals are recalculated each year with the aim of providing a certain income until death of the retirees and their survivors. Retirees may at any time during retirement use their remaining capital to buy a life annuity from a life insurance company oftheir choice instead of receiving programmed withdrawals;
- Immediate life annuity with programmed withdrawals in which case only a part of accumulated capital is transferred to an insurance company that immediately begins to pay a life annuity in parallel with benefits paid by the AFPs charging against the balance of the individual account.

The minimum old-age pension is equal to CLP 77,076.54 for retirees under age 70, CLP 84,277.26 for retirees from age 70 up to age 75 and CLP 88,213 if older than age 75.

Benefit adjustment

Mandatory personal scheme: Annuities must be expressed in Foment Units (*Unidad de Fomento* - UF) as well as programmed withdrawals, which are recalculated each year.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Survivors

Benefit qualifying conditions

Mandatory personal scheme: The insured was in covered employment (coverage is extended for up to 12 months after employment ceases if the insured had 6 months of contributions in the last year of employment) or was a pensioner at the time of death.

Eligible survivors are the:

- Widow if the marriage took place at least 6 months (at least 3 years if the deceased member was already retired or received a disability pension) before death (these requirements do not apply if dependent children of the widow and the deceased member exist or if the widow is pregnant by the deceased member);
- Widower who has been declared disabled by the Regional Medical Commission if the marriage fulfils the requirements outlined above for widows;
- Unmarried orphans under age 18 (age 24 if student, no age limit if disabled);
- Mother of children born outside marriage and recognized by the deceased member if she is single or a widow and economically dependent on the deceased member;
- Parents if no other eligible survivors exist.

The state guarantees minimum survivor pensions provided that the deceased member:

- Has contributed for at least 10 years; or
- Has contributed at least 2 years in the 5 years before death; or
- Has contributed at least 16 months of contributions with less than 2 years of employment; or
- Was retired or received a disability pension at death.

Benefit structure

Mandatory personal scheme: Upon death before retirement, the insurance company pays an amount into the deceased member's individual account that must equal the difference between the deceased member's accumulated capital and the capital necessary to finance an annuity equal to the deceased member's reference pension.

The reference pension is 70% of the revalued average salary or declared income in the last 10 years before death in the case of deceased members who were employed or self-employed at the time of their death or became unemployed during the 12 months before death andcontributed for at least 6 months immediately before becoming unemployed.

Eligible survivors may choose between the following options for using the deceased member's capital including the amount paid by the insurance company:

- Programmed withdrawals from the individual account;
- Immediate life annuity purchased from a life insurance company of their choice;
- Temporary income with a deferred life annuity in which case only a part of their accumulated capital is transferred to a life insurance company of their choice in order to purchase a life annuity payable from an agreed date, and the remaining capital is used to provide a temporary income until this date.

The second and third options are only permitted if all eligible survivors agree.

Upon death after retirement the survivor pension equal a percentage of the deceased member's reference pension:

- 60% for the spouse;
- 50% for the spouse if one or several children of the spouse and the deceased member exist and are eligible for orphans' pensions;
- 36% for the mother of children born outside marriage;
- 30% for the mother of children born outside marriage if the children are eligible for orphans' pensions;
- 15% for each orphan;
- 50% for the deceased member's parents.

The total survivor pensions must not exceed 100% of the reference pension.

If the deceased member had already retired at the date of death, survivor benefits depend on the old-age benefit option chosen (see section Retirement benefits, Benefit structure / formula):

- If the retiree was receiving an annuity under the immediate life annuity option, the survivors receive the corresponding survivor annuity;
- If the retiree opted for the temporary income with deferred life annuity option and wasduring the period of temporary income, the survivors may opt to bring forward the deferred life annuity or distribute the deceased member's temporary income between them;
- If the retiree under the temporary income with deferred life annuity option already received the annuity, survivors receive the corresponding survivor annuity;
- If the retiree received programmed withdrawals, the withdrawals continue and are distributed among eligible survivors.

The minimum survivor pensions vary among eligible survivors.

Persons who submit proof that they have paid for the deceased member's funeral can make a withdrawal of 15 Foment Units (Unidades de Fomento) from the deceased member's individual account.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Benefit adjustment

Mandatory personal scheme: Annuities must be expressed in Foment Units (*Unidad de Fomento*) as well as programmed withdrawals, which are recalculated each year.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Disability

Benefit qualifying conditions

Mandatory personal scheme: Disability benefits are provided to members with a permanent reduction in work capacity certified by the district Medical Commission of the Superintendence of AFPs.

A full disability pension is payable for members with a reduction in work capacity of at least 66% and a partial disability pension is payable for members with a reduction in work capacity of at least 50%. Coverage is extended for up to 12 months after employment ceases if the insured has 6 months of contributions in the last year of employment.

A temporary disability pension is granted for a period of 3 years after which the disability is re-assessed and a final decision made.

The state guarantees a minimum disability pension

provided that the disabled member:

- Has contributed for at least 10 years; or
- Has contributed at least 2 years in the 5 years prior to the onset of disability; or
- Has contributed at least 16 months of contributions with less than 2 years of employment; or
- Was employed at the onset of disability.

Benefit structure

Mandatory personal scheme: The temporary disability pension is paid by the insurance company at the same rate as the permanent disability pension (see below).

With regard to the permanent disability pension, the insurance company pays an amount into the disabled member's individual account that must equal the difference between the disabled member's accumulated capital and the capital necessary to finance an annuity equal to the disabled member's reference pension.

The reference pension is equal to 70% of the revalued average salary or declared income in the last 10 years before the onset of disability in the case of fully disabled members (50% if partially disabled) who were employed or self-employed at the onset of disability or became unemployed during the 12 months before the onset of disability and contributed for at least 6 months immediately before becoming unemployed.

Disabled members may choose between the following options for using their accumulated capital including the amount paid by the insurance company:

- Programmed withdrawals from their individual accounts;
- Immediate life annuity purchased from a life insurance company of their choice;
- Temporary income with a deferred life annuity in which case only a part of their accumulated capital is transferred to a life insurance company of their choice in order to purchase a life annuity payable from an agreed date, and the remaining capital is used to provide a temporary income until this date.

The minimum disability pension equals CLP 89,715.87 for retirees under age 70, CLP 98,097.40 for retirees from age 70 up to age 75 and CLP 104,666.62 if older than age 75.

Benefit adjustment

Mandatory personal scheme: Annuities must be expressed in Foment Units (*Unidad de Fomento*) as well as programmed withdrawals, which are recalculated each year.

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Protection of Rights

Protection of Assets

Mandatory personal scheme: The assets of each pension fund are owned by the members and must be kept separately from the pension fund administrator's (AFP) own assets.

At least 90% of the assets of each pension fund must be held by a custodian that must open separate accounts for each type of fund established by an AFP.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: Pension fund administrators (AFPs) must establish two types of reserves in order to compensate for low investment returns, namely a separate return fluctuation reserve for each of their pension funds and a general reserve.

The return fluctuation reserves are funded by investment returns exceeding certain limits. For type A and B funds the limit is the higher of the:

- Average real annualized rate of return over the last 36 months of all funds of the same type plus 4 percentage points; or
- Average real annualized rate of return over the last 36 months of all funds of the same type plus the absolute value of 50% of this average rate.

For type C, D and E funds the limit is the higher of the:

- Average real annualized rate of return over the

last 36 months of all funds of the same type plus 2 percentage points; or
- Average real annualized rate of return over the last 36 months of all funds of the same type plus the absolute value of 50% of this average rate.

The general reserve must be funded with the AFPs own assets and must equal 1% of the value of all funds under management.

If the investments' rate ofreturn is lower than the minimum rate of return (see section Asset management), the return fluctuation reserve must be used to compensate for the shortfall. If the return fluctuation reserve is not sufficient, the general reserve must be used to cover the remaining deficit. If both the return fluctuation and the general reserve are insufficient, the government covers the remaining deficit. If the AFP is not able to repay this amount to the government within a certain period, it must be wound up.

Each AFP must carry out separate accounting for itself and the pension funds it manages.

AFPs must provide daily information to the Superintendence concerning the purchase and sale of financial instruments.

AFPs must prepare financial statements on a periodical basis and must have them audited by an auditor once a year. Audited financial statements must be submitted to the Superintendence.

In addition, AFPs must submit quarterly certain financial statistics to the Superintendence.

Whistleblowing

Mandatory personal scheme: No legal rules.

Standards for service providers

Mandatory personal scheme: The custodian must be the Central Bank of Chile or a company that is authorized under Law No 18,876 of 1989 on the Deposit and Custody of Securities to carry out custodial functions.

Fees

Mandatory personal scheme: Pension fund administrators (AFPs) are authorized to charge a fee over periodical contributions either as a percentage of salary, as a fixed sum by operation or as a combination of both.

AFPs are also authorized to charge a fee for the transfer of a member's capital to another AFP either as a percentage of the balance which is transferred, as a fixed sum by operation or as a combination of both. Transfer fee is only charged by the new AFP elected by the member. At the moment, no APF charges this fee.

AFPs are authorized to charge a fee over benefit withdrawals only when they come from a temporary income or programmed withdrawals.

On average AFPs charge commission of 2.30% of the contributory salary, of which 1.55% is for administration and 0.75% for life and disability insurance.

Fees must be the same for all members and be based on members' salaries.

Winding up / Merger and acquisition

Mandatory personal scheme: The situations in which a pension fund administrator (AFP) must be wound up are specified by law (e.g. if an AFP does not comply with the minimum capital requirement and is not able to cover the shortfall within 6 months, or if the government must cover a shortfall in the rate of return and the AFP cannot repay the amount within a certain period).

If an AFP is wound up, a liquidator is appointed and members must choose another AFP to which their capital is to be transferred. If members do not exercise a choice, the liquidator transfers their capital to another AFP. The winding up process is supervised by the Superintendence.

Mergers of AFPs must be approved by the Superintendence. The new AFP resulting from the merger must inform members and the general public of its fees.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: The government guarantees minimum old-age, disability and survivor benefits.

In the case of bankruptcy of a life insurance company paying life annuities, the state guarantees a part of the value of the life annuity. The guaranteed part is the minimum pension plus 75% of the difference between the monthly annuity and the minimum pension, up to a maximum of 45 Foment Units (*Unidad de Fomento*).

Foment Units are accounting units with constant purchasing power that are readjusted on a daily basis in line with the Consumer Price Index (CLP 17,491 as of 1 July 2005).

Disclosure of information / Individual action

Mandatory personal scheme: Pension fund administrators (AFPs) must provide members with information at least every 4 months on:

- All transactions concerning their individual accounts;
- Returns earned on the investment of their capital;
- Annual rate of return by fund and AFP;
- Ranking of annual cost among AFPs;
- The amount of their accumulated capital.

AFPs must provide members with a personalized pension projection, according to the instructions given by the Superintendence, once a year.

AFPs must make the following information easily available to the general public at all times:

- Details of the AFP;
- The balance sheet of the last fiscal year;
- Details of the amount of pension fund, the return fluctuation reserve and general reserve assets;
- Details of the value of units for each pension fund;
- The fee structure;
- Details of the investment portfolio for each pension fund;

There are no legal requirements for AFPs to receive complaints or to establish dispute settlement procedures. Members may bring civil action against their AFP (with the Civil Courts), but they can also make their complaints to the Superintendence, which should try to solve their requests directly with the AFP and also can impose a penalty to an AFP which has broken the legislation.

Other measures

Mandatory personal scheme: None.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Tax-exempt.

Taxation of employer contributions

Mandatory personal scheme: Tax-exempt.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Taxed as income.

Regulatory and Supervisory Authorities

Superintendence of Pension Fund Administrators: Supervises AFPs and ensures that the operation of the system of mandatory private pension schemes is in compliance with legal requirements.

The Superintendence has with regard to AFPs the duties and powers to:

- Authorize their establishment;
- Monitor their operations;
- Supervise their compliance with minimum capital and reserve requirements;
- Establish the regulations applicable to disability and survivor insurance contracts;
- Withdraw authorizations under prescribed circumstances;
- Proceed and supervise their winding up.

The Superintendence is an autonomous public body under the Ministry of Labour and Social Provision and is financed through the government budget.

A Risk Classification Commission is an independent institution that:

- Approves the securities in which pension fund assets may be invested;
- Assigns a risk classification to each of these securities;
- Establishes proceedings for investment in foreign assets and approves the risk classification assigned to these assets by internationally recognized rating companies.

The Risk Classification Commission consists of the:

- AFP Superintendent;
- Bank and Financial Institutions Superintendent;
- Securities and Insurance Superintendent;
- Four representatives of the AFPs.

The office of the Commission is financed by a levy imposed on the AFPs.

Superintendencia de Administradoras de Fondos de Pensiones
Huerfanos 1273, Piso 2
Santiago
Chile 6500545
Tel.: (+56) 2 753 0100
Internet: http://www.safp.cl

Colombia

Exchange rate: USD 1.00 equals 2,338.14 pesos (COP).

Regulatory Framework

2005: Legislative Act No. 1; amends article 48 of the Colombian Constitution Policy.

2003: Law 860; modifies the General Pension System (GPS) and adopts provisions on disability benefit and the transitional regime of the public defined benefit average premium scheme.

2003: Law 797; modifies the General Pension System (GPS) and adopts provisions on special pension regimes.

1993: Law of Pensions No. 100; creates the General Pension System (GPS) which introduces the private individual pension scheme, regulates the establishment and operation of pension fund administrators (*Administradoras de Fondos de Pensiones* - AFPs), asset management and the protection of rights.

Note: The creation of the GPS minimum guarantee fund was declared invalid because of flaws in procedure relating to article 14 of Law 797 of 2003, which modified article 65 of Law 100 of 1993. However, article 7 of Law 797 of 2003, which assigns money to the GPS minimum guarantee fund, continues in force with regard to the economic application of the guaranteed minimum pension as set out in article 65 of Law 100 of 1993; nevertheless, the government has still to issue a modified or new statutory decree to clarify which entity is responsible for managing the money.

Types of Schemes

All covered persons must become members of the General Pension System (GPS), which comprises the public defined benefit average premium scheme, the private defined contribution individual saving scheme and two public funds (the solidarity pension fund and the minimum guarantee pension fund), which provide a solidarity component to the private individual saving scheme.

The solidarity pension fund is used to increase coverage by subsidizing those population groups (such as independent workers, the unemployed, artists, sportsmen/women, those employed by municipalities as community-based social workers (*Madres Comunitarias*) and the disabled) that, given their characteristics and socio-economic conditions, do not have access to the social security system. The fund has two sub-accounts: a subsistence account, which is intended to protect indigent people and those in extreme poverty through an economic subsidy; and a solidarity account, which is used to subsidize contributions to the GPS for employees and independent workers in rural and urban areas who cannot pay their contributions due to a lack of resources.

The minimum guarantee pension fund is used to increase individual account balances if they are insufficient to finance the minimum benefit.

Members may choose to join either the public defined benefit average premium scheme or the private individual saving scheme but once the choice has been made the elected scheme is mandatory for the member.

Members cannot participate in both the public and private schemes simultaneously. However, they may transfer between schemes every 5 years up to the last 10 years before retirement when they may no longer change schemes.

The public defined benefit average premium scheme is managed by a public institution, the Social Security Institute (*Instituto de Seguros Sociales* - ISS) and the private individual saving scheme is managed by Pension Fund Administrators (*Administradoras de Fondos de Pensiones y Cesantía* - AFPs).

Persons who opt for the private scheme may choose to become a member of any AFP without influence

of their employers. Members can also transfer their individual account to another AFP every 6 months.

Each AFP may administer several individual capitalization funds and one severance pay fund. Individual capitalization funds are defined contribution and assets, which are accumulated in the individual accounts, are the exclusive property of the affiliate members. Severance pay funds are mandatory for all workers with an employment contract and are financed by employers' contributions of 8.3% of the insured's annual salary. AFPs and severance pay funds are supervised by the Banking Superintendence.

Employers and employees may make additional voluntary contributions to the individual accounts in the private individual saving scheme.

Employees and the self-employed may also participate in voluntary complementary pension plans outside the General Pension System (GPS).

Information on the public defined benefit average premium scheme is only covered in the following paragraphs where it interacts with the private individual saving scheme.

Institutional Framework

General pension system (GPS): The General Pension System (GPS) incorporates the public defined benefit average premium scheme, the private individual saving scheme and two public funds, the solidarity pension fund and the minimum guarantee pension fund, which provide a solidarity component to the private scheme.

The public defined benefit average premium scheme is administered by the Social Security Institute (*Instituto de Seguros Sociales* - ISS) and is not covered further in the following paragraphs except where it interacts with the private individual saving scheme.

GPS individual saving scheme: The scheme is managed by Pension Fund Administrators (*Administradoras de Fondos de Pensiones y Cesantías* - AFPs) and by Severance Pay Fund Administrators if they fulfil the same conditions as AFPs.

AFPs must be established as private or public companies and may also be established by third sector organizations (cooperatives, trade unions and cooperative banks) and family allowance funds. At the moment six private AFPs exist:

- Administradora de Fondos de Pensiones y Cesantía Protección S.A.
- Sociedad Administradora de Fondos de Pensiones y Cesantía Porvenir S.A.
- Bbva Horizonte Sociedad Administradora de Fondos de Pensiones y de Cesantía S.A.
- Fondos de Pensiones y Cesantía Santander S.A.
- Skandia Administradora de Fondos de Pensiones y Cesantía S.A.
- Compañía Colombiana Administradora de Fondos de Pensiones y Cesantía S.A.

The establishment and operation of an AFP is subject to the authorization of the Banking Superintendence (*Superintendencia Bancaria*) which also supervises and regulates the scheme.

AFPs must be "anonymous companies" (privately-owned companies with at least 5 shareholders) or mutual institutions and at their establishment must have a minimum capital of COP 8.21 million for AFPs and COP 2.32 million for Severance Fund Administrators. The maximum capital must be less than 10 times the minimum in order to avoid economic concentration. During the first 5 years of operations at least 20% of the AFP's capital equity must be on public offer to third sector organizations (cooperatives, trade unions and cooperative banks).

AFPs can be authorized to establish and manage several pension funds simultaneously. However, the value of the funds administered by AFPs must not exceed 48 times the AFP's technical capital (the calculation of which is specified in law).

Members and AFPs' shareholders must elect an auditor to manage the internal audit of the fund's administration.

One employer and two affiliate member (elected amongst the affiliate members) representatives may participate in, and speak at, the AFPs governing board but may not vote. If the AFP manages both a pension

fund and a severance pay fund there must be one affiliate representative from each type of fund.

AFPs are responsible for the management of the contribution and benefit administration. However, they may contract the collection of contributions and payment of benefits to other organizations if they wish.

Each AFP must sign a collective life contract with an insurance company under the Banking Superintendence regulations to finance disability and survivor benefits.

GPS solidarity pension fund: The solidarity pension fund is administered in a separate account by the Ministry of Social Security Protection. The solidarity pension fund has a solidarity account and a subsistence account. The fund is used to increase coverage to the population such as low-income workers, indigents or those in extreme poverty who could not otherwise participate in the social security system.

GPS minimum guarantee fund: The minimum guarantee pension fund guarantees minimum benefits. National government determines the organization and administration of the pension system's regime, as well as which entity or entities administer it.

Coverage

Covered population

General pension system (GPS): Membership of the General Pension System (GPS) is mandatory for all employees, civil servants and the self-employed.

Members may choose to join either the public defined benefit average premium scheme or the private individual saving scheme. However, new civil servants must become members of the public defined benefit average premium scheme for the first 3 years of employment.

Members cannot participate in both the public and private schemes simultaneously. However, they may transfer between schemes every 5 years up to the last 10 years before retirement when they may no longer change schemes.

Membership of the GPS is voluntary for all residents in Colombia or Colombians who live abroad who do not fall in the mandatory category and for foreigners working in Colombia on a contract of employment and who are not covered by their own country's pension scheme.

GPS individual saving scheme: Persons who receive disability benefit from the public defined benefit average premium scheme or another public scheme (such as for the armed forces, teachers etc.) are excluded from the private individual saving scheme.

Men aged 55 or more and women aged 50 or more when the new system came into force (i.e. 1994) are also excluded from the private individual saving scheme unless they voluntarily decide to become members and contribute for at least 500 weeks. If they do, then the employer contribution also becomes mandatory.

Enforcement of affiliation

GPS individual saving scheme: Employers are obliged to request employees to inform them in writing about their chosen pension fund regime and the respective administrator. This is to ensure that contributions are paid on time and interest charges are not incurred due to late payment.

In the event that an employee does not affiliate to either regime, or does not choose an administrator, the employer will select the administrator (with the proviso that the employee is able to change the regime or administrator later).

The employer is responsible for paying over all of the contributions even in the event that no deductions have been made from the employee's salary.

GPS individual saving scheme: Pension fund administrators (AFPs) are not allowed to refuse any request for affiliation from eligible persons.

In the event that an employee does not affiliate to either regime, or does not choose an administrator, the employer will select the administrator (with the

proviso that the employee is able to change the regime or administrator later).

The Banking Superintendence authorizes marketing agents to operate on behalf of AFPs once it has evaluated their technical capacity. Marketing agents do not, however, have to be registered.

Financing / Investment

Sources of funds

GPS individual saving scheme: The total employee and employer contribution rate of 15% (15.5% from January 2006) is split as follows: 10.5% (11% from January 2006) for the individual account, 1.5% for the minimum guarantee pension fund and 3% for pension fund administrators' (AFPs) fees and life and disability insurance.

Monthly contributions are collected by AFPs and must be paid between the first and eighth working day of the following month. A 24.58% effective annual interest rate is charged in case of late payment.

Member contributions

GPS individual saving scheme: Mandatory member contribution is 3.75% - 3.875% from January 2006 (i.e. 25% of the total employee/employer contribution rate) of the monthly contribution base salary.

Self-employed workers contribute both the employee and employer contribution based on their declared income.

The minimum monthly contribution base salary is the minimum monthly national salary (COP 381,500) and the maximum is 25 times the minimum monthly national salary (COP 9,537,500). These limits also apply to self-employed workers.

Members may pay additional voluntary contributions to the individual account if they so wish.

GPS solidarity pension fund: Members with a monthly contribution base salary higher than four times the minimum monthly national salary must make additional contributions to the solidarity pension fund (on a scale from 1% on four times the minimum monthly national salary to 2% on 20 or more times the minimum monthly national salary).

GPS minimum guarantee pension fund: 0.375 (25% of 1.5%) included in the total 15% of employee and employer contributions (see section Source of funds).

Employer contributions

GPS individual saving scheme: Mandatory employer contribution is 11.25% - 11.625% from January 2006 (i.e. 75% of the total employee/employer contribution rate of 15%) of the employee's monthly contribution base salary.

The minimum monthly contribution base salary is the minimum monthly national salary (COP 381,500) and the maximum is 25 times the minimum monthly national salary (COP 9,537,500).

GPS solidarity pension fund: None.

GPS minimum guarantee pension fund: 1.125% (75% of 1.5%) included in the total 15% of employee and employer contributions (see section Source of funds).

Other sources of funds

GPS solidarity pension fund: The fund, in addition to the employee contributions, receives contributions from the State set forth in the Budget.

The fund may supplement contributions for employees whose contribution base salary or self-employed income is less than the minimum monthly national salary (COP 381,500) and for members aged 58 or more who have not accumulated enough capital to provide the minimum benefit.

Methods of Financing

GPS individual saving scheme: Funded in individual accounts.

The solidarity pension fund and minimum guarantee pension fund may supplement the individual account balances in certain cases.

Asset Management

GPS individual saving scheme: Each pension fund administrator (AFP) may establish and manage several individual capitalization funds and one severance pay fund if authorized to do so by the Banking Superintendence.

Each asset class is subject to quantitative investment restrictions determined by the Banking Superintendence. Securities must be protected against currency devaluation and must provide a real interest rate of return, which reflects the financial market interest rate certified quarterly by the Banking Superintendence.

Most important maximum limits are:

- 50% in public debt notes issued or guaranteed by the state;
- 20% in other public debt notes issued by state institutions in accordance with Law 80 of 1993, Decree No. 2681 of 1993 and other regulations, without state guarantee;
- 10% in securities issued, backed or guaranteed by the Guarantee Fund of Financial Institutions (FOGAFIN) and by the Guarantee Fund of Cooperative Institutions (FOGACOOP);
- 40% in bonds and mortgage securities and other credit securities derived from mortgage securities portfolio;
- 20% in securities of which the underlying assets are not mortgaged;
- 30% in fixed interest securities issued, backed, accepted or guaranteed by institutions supervised by the Banking Superintendence;
- 10% in state and portfolio contract discounts, which are guaranteed by a credit or insurance establishment;
- 30% in fixed interest securities issued by institutions not supervised by the Banking Superintendence;
- 30% in variable interest securities: high and medium market liquidity stocks and stocks from privatization processes;
- 10% in foreign investments.

AFPs cannot invest in assets issued or guaranteed by the same economic group to which it belongs.

Transactions in the official stock market must be electronic transactions according to Central Bank regulations and mechanisms.

AFPs must guarantee a minimum rate of return that is determined by the Banking Superintendence. The benchmarks for this rate are the returns of other assets with a comparable risk/return profile. If AFPs cannot achieve the minimum rate of return they must top it up from the return stability reserve (see section Financial and technical requirements/reporting) and, if necessary, from their own capital.

All pension fund assets must be held by a custodian and deposited in a securities central deposit (Republic Bank or other institution approved by the Securities Superintendence). Custodians of foreign investments are international banks or foreign custodian institutions.

GPS solidarity pension fund: The fund's resources can only be administered by public fiduciary companies preferably in the social solidarity sector or by pension and/or severance pay fund administrators.

GPS minimum guarantee pension fund: The government determines the entity or entities that administer this fund.

Benefit provisions

Preservation, portability, transferability

General pension system (GPS): Members may transfer from one scheme to the other every 5 years after the date of initial membership or last transfer up to the last 10 years before retirement when they may no longer change schemes.

Members who transfer from the public defined benefit average premium scheme to the private individual saving scheme and have made contributions to the public scheme for at least 150 weeks are entitled to a recognition bond (*Bono Pensional*) valued on an actuarial basis and is credited to the individual account, with interest, and redeemed upon retirement.

GPS individual saving scheme: Members may transfer their accounts from one pension fund

administrator (AFP) to another once every 6 months. Members must make the transfer request at least 30 days in advance. When transferring to another AFP members are entitled to be paid the minimum rate of return by the current AFP in proportion to the amount of accrued assets.

Members who transfer from the private to the public scheme also transfer the individual account balance to the public scheme.

AFPs may charge fees for all transfers. In the event that an affiliate decides to transfer between regimes or between administrators, the administrator from which the affiliate is transferring can deduct a maximum commission of 1% for the transfer from the income base for contributions on which the last contribution was based up to an overall maximum of 1% of four times the minimum monthly national salary (COP 381,500).

Retirement Benefits

Benefit qualifying conditions

GPS individual saving scheme: Retirement benefits may be paid at any time by the pension fund administrator (AFP) if the balance in a member's account is sufficient to finance a monthly benefit of more than 110% of the minimum monthly national salary (COP 381,500).

Members aged 62 (men) and aged 57 (women) who have contributed for at least 1,150 weeks but whose individual account balance is not sufficient to finance a monthly benefit of at least the minimum monthly national salary (COP 381,500) may retire and have their individual account balance topped up from the minimum guarantee pension fund in order to receive the minimum guaranteed pension.

Members aged 62 (men) and aged 57 (women) who have not contributed for at least 1,150 weeks and whose individual account balance is not sufficient to finance a monthly benefit of at least the minimum monthly national salary (COP 381,500) are entitled to a refund of the individual account balance.

Withdrawal of funds before retirement

GPS individual saving scheme: Members who have more than sufficient in their individual account to finance a benefit greater than 110% of the minimum monthly national salary (COP 381,500) and also more than 70% of their contribution base salary may withdraw the excess amount for whatever purpose they wish.

Members who have more than sufficient in their individual account to finance a benefit greater than 110% of the minimum monthly national salary (COP 381,500) may withdraw the excess to use for housing or education.

Members may withdraw voluntary contributions 6 months after making the withdrawal request.

Benefit structure / formula

GPS individual saving scheme: The retirement benefit may be paid in the following three forms:

- Annuity: the account balance is transferred to an insurance company chosen by the member, which pays an annuity of at least the minimum benefit. Once made, this choice is irrevocable;
- Programmed withdrawal: the pension fund administrator (AFP) pays a monthly benefit from the member's individual account. The amount is calculated by dividing the account balance by the capital required to pay a unitary annuity to the member and his/her survivors divided into 12 monthly payments. During the period that a member receives programmed withdrawal benefits their account balance must be at least as much as the capital required to finance an annuity equal to the minimum monthly national salary (COP 381,500). Members may at any time decide to change to one of the other two payment options;
- Programmed withdrawal with deferred annuity: the member may use part of the account balance to purchase an annuity from an insurance company to receive monthly payments from a determined future date while using the remaining balance to provide programmed withdrawals from the AFP up to the start of the annuity payments. The monthly pension paid by the annuity contract cannot be less

than the minimum benefit.

The minimum monthly retirement benefit cannot be less than the minimum monthly national salary (COP 381,500).

Members aged 62 (men) and aged 57 (women) who have contributed for at least 1,150 weeks but whose individual account balance is insufficient to provide the minimum benefit are entitled to a top up from the minimum guarantee pension fund to finance the minimum benefit.

Members aged 62 (men) and aged 57 (women) who have not contributed for at least 1,150 weeks and whose individual account balance is not sufficient to finance a monthly benefit of at least the minimum monthly national salary (COP 381,500) are entitled to a refund of the individual account balance.

Benefit adjustment

GPS individual saving scheme: Benefits from annuities and programmed withdrawals are adjusted annually every January 1 according to the consumer price index for the previous year. Pensions based on the minimum monthly national salary are adjusted according to increases in the minimum monthly national salary.

Survivors

Benefit qualifying conditions

GPS individual saving scheme: Survivors are eligible if the deceased:

- Was receiving retirement or disability benefit (for ordinary risk); or
- Was an active member with at least 50 weeks of contributions in the 3 years prior to the date of death and met the following conditions: aged 20 or more and contributed for at least 25% of the time between age 20 and the date of death if caused by illness; or aged 20 or more and contributed for at least 20% of the time between age 20 and the date of death if caused by accident.

Eligible survivors are:

- Life pension: spouse or companion aged 30 or more or under age 30 with children at the date of the member's death. If the deceased member was receiving retirement or disability benefit the spouse or companion must have cohabited with the deceased for at least five years prior to the date of death;
- Temporary pension: spouse or companion under age 30 at the date of the member's death and without children (paid for 20 years); children up to age 18 (age 25 if students, for life if disabled); the absence of above, parents economically dependent on the member; and in the absence of the above, disabled brothers or sisters economically dependent on the member.

Benefit structure

GPS individual saving scheme: If the deceased was receiving retirement benefit, the monthly survivor benefit is 100% of the deceased's pension.

If the deceased was an active member, the monthly survivor benefit is 45% of the contribution base salary plus 2% for each 50 additional weeks of contributions up to the first 500 weeks of contributions, up to a maximum of 75% of the contribution base salary.

The spouse or permanent companion of the beneficiary receives 50% and the children receive the other 50%, distributed in equal parts according to the number of eligible children.

When there are no children or when their right is lost or extinguished, the total pension is paid to the spouse or permanent companion of the beneficiary.

When there is no spouse or permanent companion or when their right is lost or extinguished, the total pension is paid to the children of the beneficiary.

When there is no spouse or permanent companion nor children with rights, the total pension is paid to the beneficiary's parents.

When there is no spouse or permanent companion nor children nor parents with rights, the total pension is paid to the beneficiary's heirs.

If the deceased was an active member the survivor benefit is financed by the total balance in the individual account resulting from mandatory contributions, plus the recognition bond if applicable,

plus the additional amount necessary to finance the benefit provided by the insurance company. Voluntary additional contributions are not used to finance survivor benefit unless the latter is less than the minimum monthly national salary (COP 381,500).

If the deceased was receiving retirement benefit the survivor benefit is financed in the same way as the retirement benefit. If the deceased's retirement benefit was paid as programmed withdrawals or programmed withdrawals with deferred annuity any excess in the individual account balance over the capital required to finance the benefit may be used to increase the survivor benefit.

Survivors may contract with an insurance company other than the one that provided the amount necessary to finance the survivor benefit.

The minimum survivor benefit cannot be less than the minimum monthly national salary (COP 381,500). If the account balance is not sufficient to finance the minimum benefit members are entitled to a top up from the minimum guarantee pension fund. The maximum survivor benefit in this case is 75% of the contribution base salary.

If the member dies without fulfilling the qualifying conditions the individual account balance and the recognition bond, if applicable, are paid to survivors.

A lump-sum payment for funeral expenses amounting to the last contribution base salary or the last retirement or survivor benefit received, may be paid by the pension fund administrator (AFP) or insurance company to the person who paid for the deceased member's funeral. This payment must be between five and ten times the minimum monthly national salary (COP 381,500) according to the average burial cost in Colombia.

Disability

Benefit qualifying conditions

GPS individual saving scheme: Members whose work capacity is reduced at least 50% because of disability resulting from ordinary risk (disability caused by occupational risk is covered by the work injury system).

Members aged 20 or more must have a minimum of 50 weeks of contributions in the 3 years immediately before onset of disability plus have contributed to the scheme for at least 20% of the time between age 20 and the onset of disability if caused by illness; the latter requirement does not apply in case of disability caused by accident.

Beneficiaries under age 20 must have 26 weeks of contributions in the last year before the onset of disability whether caused by illness or accident.

The percentage of disability is determined by the Regional Disability Qualification Committee according to a Disability Unique Manual issued by the government.

Benefit structure

GPS individual saving scheme: In the case of reduction in work capacity between 50% and 66% the monthly benefit is 45% of the contribution base salary plus 1.5% for each 50 additional weeks of contributions up to the first 500 weeks. In the case of reduction in work capacity higher than 66% the monthly benefit is 54% of the contribution base salary plus 2% for each 50 additional weeks of contributions up to the first 800 weeks.

Disability benefit is financed by the individual account balance resulting from mandatory contributions, plus the recognition bond if applicable, plus any additional amount necessary to finance the benefit provided by the insurance company. Voluntary additional contributions are not used to finance disability benefit unless the latter is less than the minimum monthly national salary (COP 381,500).

If the Regional Disability Qualification Committee confirms disability has ended the insurance company must return the reserved retirement balance to the individual account. Contributions to retirement pension are considered as paid for periods during which a member receives disability benefit.

Disability beneficiaries may contract with an insurance company other than the one that provided the amount necessary to finance the benefit.

The minimum disability benefit cannot be less than

the minimum monthly national salary (COP 381,500). The maximum disability benefit is 75% of the contribution base salary.

If a disabled member does not fulfil the qualifying conditions for disability benefit the individual account balance, and the recognition bond if applicable, are returned to the member. Otherwise members may maintain the individual account and continue contributing to achieve the minimum individual account balance necessary to receive retirement benefit.

Protection of Rights

Protection of Assets

GPS individual saving scheme: The assets of each pension fund must be kept separately from the assets of the pension fund administrator (AFP) that manages those funds. Fund assets must be held by a custodian and deposited in a securities central deposit (Republic Bank or other institution approved by the Securities Superintendence). Custodians of foreign investments are international banks or foreign custodian institutions.

If an AFP or insurance company fails in their duties, 100% of members' savings resulting from mandatory contributions and up to 150 times the minimum monthly national salary (COP 381,500) resulting from voluntary contributions as well as benefits in payment are guaranteed through the state run Financial Institutions Guarantee Fund (*Fondo de Garantía de Instituciones Financieras* - FOGAFIN) to which AFPs must contribute.

The minimum guarantee pension fund provides the resources to pay the minimum benefits where individual account balances are insufficient.

Financial and Technical Requirements / Reporting

GPS individual saving scheme: Pension fund administrators (AFPs) must maintain a return stability reserve for each pension fund that they manage in order to guarantee the minimum rate of return determined by the Banking Superintendence. The reserve minimum amount is 1% of the pension fund balance and is funded from the AFP's assets. The reserve must be kept separately from the AFP's other assets and those of the pension funds it manages.

The effective annual minimum rate of return for the period 30 June 2002 to 30 June 2005 was 11.85%.

AFPs must report the pension fund rate of return periodically to members and to the Banking Superintendence.

Administrators must remit information regarding pension funds' financial statements, fund valuation and rate of return daily to the Banking Superintendence.

Administrators report to the Superintendence statistics of affiliates and pensioners monthly.

When the administrator fails to fulfil Banking Superintendence's orders or instructions or when there are grave inconsistencies in the information that, in Superintendence's judgment, impede the revelation of the entity's real situation the Supervisory body can rescind the authorization of an AFP.

GPS minimum guarantee pension fund: Pension fund administrators (AFPs) must report the balances in the GPS minimum guarantee pension accounts daily to the Banking Superintendence. Additionally, the Law of Commerce obliges Fiscal Revisers (person designated by an AFP's members and shareholders to audit the management of the fund) to inform the relevant authorities about any anomaly in the AFP's activities.

Whistleblowing

GPS individual saving scheme: No legal rules.

Standards for service providers

GPS individual saving scheme: The Superintendence must check the suitability and experience of the auditor elected by a pension fund administrator's (AFP) shareholders to manage the internal audit of the AFP.

The Banking Superintendence examines the character,

suitability and experience of the fiscal reviser and can refuse to authorize an auditor.

Fiscal revisers (person designated by an AFP's members and shareholders to audit the management of the fund) are authorized by the Banking Superintendence. Custodians must be authorized by the Securities Superintendence and the required qualities for investment managers are regulated in the pension funds' investment regime.

Fees

GPS individual saving scheme: Pension fund administrators (AFPs) may charge a maximum administration fee of 3% of the contribution base salary (discounted from the total employee/employer contributions). It is used to meet the cost of administering mandatory contributions, of the collective life insurance and of the contributions to the Financial Institutions Guarantee Fund (*Fondo de Garantía de Instituciones Financieras* - FOGAFIN).

AFPs may charge additional fees for programmed withdrawal benefit management (maximum 1% of monthly returns on the individual account balance, not exceeding 1.5% of the benefit paid), for severance pay fund asset management (maximum 4.5% of the monthly return on the individual account balance, not exceeding 50% of the fees charged for the mandatory contributions), for members' scheme transfers (maximum 1% of the last contribution base salary when transferring funds out of the AFP, up to a maximum of 1% of four times the minimum monthly national salary), and for receiving voluntary contributions.

For voluntary pensions, fees are fixed according to each fund's regulations.

AFPs may contract the collection of contributions, asset management and benefit payment to other organizations. At the moment, banks and other financial institutions act as agents to collect contributions and pay out benefits on behalf of AFPs.

Winding up / Merger and acquisition

GPS individual saving scheme: A pension fund administrator (AFP) must be wound up if the contract between the shareholders that established the AFP expires, if there are insufficient shareholders in the AFP, due to causes specified in the contract, if an AFP's shareholders decide to wind it up, if there is a loss of the 50% of the capital subscription of the AFP, or when one shareholder owns 95% of the equity of the AFP.

The Banking Superintendence always supervises the process and has the right to object to it within two months of the start of the winding up procedure.

Bankruptcy: Insolvency Insurance / Compensation Fund

GPS individual saving scheme: Pension fund administrators (AFPs) must contribute to the state run Financial Institutions Guarantee Fund (*Fondo de Garantía de Instituciones Financieras* - FOGAFIN) from their own resources to assure the reimbursement of 100% of the individual account balances including returns, resulting from the mandatory contributions, and up to 150 times the minimum monthly national salary, resulting from voluntary contributions, in the event of the AFP's dissolution or liquidation.

Disclosure of information / Individual action

GPS individual saving scheme: Pension fund administrators (AFPs) have to send members, at least quarterly, a statement containing the amount of contributions deposited, returns, account balances and fees paid.

Other measures

GPS individual saving scheme: A pension fund administrator (AFP) Ombudsman (Defensor del Cliente) and a deputy must be appointed for a two-year period (renewable) by an assembly of the AFP's shareholders. The Ombudsman and the deputy are employees of the AFP whose duties are to resolve freely and objectively any claims from the affiliate members.

Tax Treatment

Taxation of member contributions

GPS individual saving scheme: Tax-exempt.

Taxation of employer contributions

GPS individual saving scheme: Tax-exempt.

Taxation of investment income

GPS individual saving scheme: Tax-exempt.

Taxation of benefits

GPS individual saving scheme: Tax-exempt up to 25 times the minimum monthly national salary (COP 9,537,500). Benefits over this amount are taxed according to general income tax rules.

Regulatory and Supervisory Authorities

Banking Superintendence: Regulates, supervises and ensures that the operation of the mandatory private individual saving scheme and the mandatory severance pay scheme is in compliance with legal requirements. It is an integrated institution that also regulates banks and insurance companies. The Superintendence is part of the Finance Ministry and is financed with the contributions that the supervised entities are required to pay.

The Superintendence has the powers and functions to:

- Supervise pension fund administrators (AFPs) and insurance companies and ensure they have the level of capital and assets imposed by regulations;
- Supervise the level of AFPs' return stability reserve;
- Supervise the winding up of AFPs;
- Regulate AFPs' procedures for member affiliation and transfer;
- Calculate the funds' minimum rate of return;
- Impose sanctions on APFs in the case of violation of legal requirements.

The Banking Superintendence and the Superintendence of Securities are to be merged into the Financial Superintendence from January 2006.

The government regulates the establishment and operation of a permanent commission comprising employees, employers and retirees to oversee and analyze failures in the scheme with regard to the basic social goal of the General Pension System of wealth redistribution.

Banking Superintendence
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From November 2005 the Banking Superintendence and the Securities Superintendence were merged into the Financial Superintendence, which retains the power and functions of the former Banking Superintendence.

Financial Superintendence
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Costa Rica

Exchange rate: USD 1.00 equals 474.35 colones (CRC).

Regulatory Framework

2000: Law 7983 on Protection of Workers; establishes the structure of the reformed old-age protection system consisting of a public noncontributory pension scheme, a mandatory publicly managed social security scheme and mandatory and voluntary private pension schemes; regulates the establishment, operation and supervision of pension operators and pension funds, including public pension funds, and provides for benefits to be paid as annuities or programmed withdrawals.

1995: Law 7523 on Private Pension Schemes; establishes the Superintendence of Pensions.

Types of Schemes

All persons covered by the publicly managed social security scheme must also become members of the mandatory private pension scheme by filing a membership application with a pension operator (*Operadora de Pensiones*). In case covered persons do not choose a pension operator they are automatically assigned.

Mandatory complementary private pension schemes are defined contribution and assets are accumulated in individual accounts.

Covered persons may choose any pension operator for membership without influence of their employers.

Voluntary additional contributions are prohibited but members and employers may pay tax-deductible contributions to a voluntary defined contribution scheme established by any pension operator. Voluntary pension schemes are implemented through the establishment of voluntary pension funds and are not covered further in the following sections.

Institutional Framework

Mandatory personal scheme: Pension operators, funded by private or public capital, must be joint-stock companies with the main business aim of establishing private pension schemes and implementing them through the establishment of one or more pension funds. The Superintendence of Pensions may authorize pension operators to also carry out other business related to the principal business.

The establishment and operation of a pension operator is subject to the authorization of the Superintendence of Pensions on consideration of, among other issues:

- The solvency of the founders of the pension operator;
- The economic feasibility study that must be submitted by the founders.

Pension operators must comply with a minimum capital requirement of CRC 250 million. This amount is adjusted annually in line with the Consumer Price Index.

Pension operators must be governed by a board of directors and a general assembly of shareholders.

The board of directors must consist of at least five members with recognized good reputation. At least two members of the board must have documented experience in the financial sector. The Superintendence must be informed of the appointment of members of the board of directors.

Members of the board of directors must not have been in the previous 5 years sentenced for a crime involving fraud or prohibited by a financial supervisory or other government authority from taking any managerial position.

At least 40% of the members of the board of directors must not be shareholders, or relatives of shareholders, of the pension operator or employed by companies belonging to the same economic or financial group as the pension operator.

The general assembly of shareholders must appoint a managing director responsible for the daily

management of the pension operator and an internal controller to supervise compliance with legal requirements.

The internal controller and the managing director must fulfil the requirements for members of the board of directors outlined above. The Superintendence must be informed of their appointment.

Pension operators manage the benefit administration if the programmed withdrawals option is chosen (see section Retirement benefits, Benefit structure / formula). Annuities are provided by the National Insurance Office (public insurance monopoly).

The Social Security Institution of Costa Rica (*Caja Costarricense de Seguro Social* - CCSS) administers a centralized system of contribution collection. It collects and registers contributions and transfers them to the pension operator chosen by covered persons.

Coverage

Covered population

Mandatory personal scheme: All persons covered by the publicly managed social security scheme must become members of a mandatory private pension scheme (i.e. public- and private-sector employees).

Self-employed persons may join, and contribute to, a voluntary private pension scheme (see section Types of schemes).

Enforcement of affiliation

Mandatory personal scheme: Covered employees must choose a pension operator for membership and their employers must inform the Social Security Institution of Costa Rica (*Caja Costarricense de Seguro Social* - CCSS) of their choice within a specified period of employment.

Where covered employees do not choose a pension operator, their employer must affiliate them to the pension operator established by the Popular Community Development Bank (*Banco Popular y de Desarrollo Comunal*). The Superintendence must regularly publish a list of members affiliated by their employer to this pension operator in a national newspaper.

Pension operators must not refuse any application for membership from covered persons.

Marketing agents of pension operators must be registered with the Superintendence of Pensions. In order to be registered they must comply with certain requirements including passing an exam organized by the Superintendence.

Financing / Investment

Sources of funds

Mandatory personal scheme: The total employer and member contribution rate is 4.25% of salary.

Member contributions

Mandatory personal scheme: Members contribute 1% of salary.

The minimum monthly earnings for contribution purposes are CRC 88,847.

There are no maximum earnings for contribution purposes.

Employer contributions

Mandatory personal scheme: Employers contribute 3.25% of salary (of which 1.5% of salary represents one-half of the mandatory employer severance pay contribution of 3%).

The minimum monthly earnings for contribution purposes are CRC 88,847.

There are no maximum earnings for contribution purposes.

Other sources of funds

Mandatory personal scheme: Pension operators funded by public capital must contribute 50% of their profits. This 50% is split amongst individual accounts managed by the pension operator in proportion to their balances.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

Asset Management

Mandatory personal scheme: Pension operators may establish and manage one mandatory pension fund and several voluntary pension funds.

Pension funds may only be denominated in CRC or USD.

The investment of fund assets must be to the best advantage of members and must seek the necessary equilibrium between security, return and liquidity in compliance with legal investment restrictions.

Pension fund assets may only be invested in:

- Securities registered with the National Registry Office of Securities and Intermediaries (*Registro Nacional de Valores e Intermediarios*) and securities issued by supervised financial institutions;
- Securities traded in authorized markets.

The Superintendence of Pensions has issued regulations prohibiting certain types of investments carrying high risk.

Of total pension fund assets invested:

- A minimum of 15% must be in mortgage backed securities issued by institutions of the National Housing System (*Sistema Financiero Nacional para la Vivienda*), which provide a rate of return at least equal to the mean rate of return that can be obtained by investment in other asset classes;
- A maximum of 25% may be in foreign securities traded in domestic or international markets. The National Council of the Financial Supervision (*Consejo Nacional de Supervisión del Sistema Financiero*) may increase this limit to 50% if the rate of return on domestic securities is less than, or equal to, the rate of return on foreign securities.

Pension fund assets must not be:

- Invested in securities issued or guaranteed by members, or relatives of members, of the pension operator's board of directors;
- Invested in securities issued or guaranteed by individuals or companies that hold more than 5% of the shares of the pension operator or that effectively control the operator;
- Used as a guarantee by the pension operator.

There are no legal requirements for a minimum rate of return to be credited to the members' individual accounts.

Pension fund assets must be held by a custodian and pension operators must establish an investment and a risk committee.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Members may change their pension operators after having paid twelve monthly contributions to their individual accounts. This period does not apply if the operator increases its fees.

If members change their pension operator, they must inform the Social Security Institution of Costa Rica (*Caja Costarricense de Seguro Social* - CCSS) of their new choice and the CCSS defines the time and conditions applicable to the transfer of their accumulated capital.

Pension operators must not charge any fee for the transfer of a member's capital to another operator.

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: Retirement age is 59 years and 11 months for women and 61 years and 11 months for men (same as under the publicly managed social security scheme). Members must submit proof of eligibility for benefits under the publicly managed social security scheme to be eligible for benefits under the system of mandatory private pension schemes.

Withdrawal of funds before retirement

Mandatory personal scheme: Members who retire within ten years of the introduction of the mandatory private pension scheme (March 2001) may withdraw their capital at any time before retirement.

Withdrawal of funds before retirement is not permitted for other members.

Benefit structure / formula

Mandatory personal scheme: At retirement age, members may choose between using their accumulated capital to purchase a life annuity or to receive programmed withdrawals from their individual account.

Annuities are provided by the National Insurance Office (public insurance monopoly). The Superintendence of Pensions defines the mortality tables for the calculation of annuities. The National Insurance Office may contract the administrative function of paying annuities to the pension operator.

In the case of programmed withdrawals, the accumulated capital is left with the pension operator that calculates the withdrawals and pays them to the retiree. Retirees who have opted for programmed withdrawals may change their decision and purchase an annuity at any time during retirement.

Benefit adjustment

Mandatory personal scheme: No legal rules.

The adjustment of annuities is left to the discretion of the National Insurance Office.

Survivors

Benefit qualifying conditions

Mandatory personal scheme: Survivor benefits are only provided by the social insurance scheme.

Operators may offer voluntary survivor insurance to their members through an insurance policy with the National Insurance Office. This insurance coverage is financed by voluntary contributions.

Benefit structure

Mandatory personal scheme: Survivor benefits are only provided by the social security scheme.

If voluntary insurance is offered by the operator, then when members join this insurance they must notify the operator of their eligible survivors. The benefit structure depends on the insurance policy and typical provisions have not been observed as no such policies have yet been sold.

Disability

Benefit qualifying conditions

Mandatory personal scheme: Disability benefits are only provided by the social security scheme.

Operators may offer voluntary disability insurance to their members through an insurance policy with the National Insurance Office. This insurance coverage is financed by voluntary contributions.

Benefit structure

Mandatory personal scheme: Disability benefits are only provided by the social insurance scheme.

The benefit structure under the voluntary coverage depends on the insurance policy and typical provisions have not been observed as no such policies have yet been sold.

Protection of Rights

Protection of Assets

Mandatory personal scheme: Pension fund assets are the property of the members and must be kept separate from the assets of the pension operator.

Pension fund assets must be held by a custodian and pension operators must establish an investment and a risk committee.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: In addition to the prescribed minimum capital (see section Institutional

framework), pension operators must have a minimum operating capital of 1% of the mandatory pension fund assets.

Pension operators must establish accounting, financial, communication and information technology systems in accordance with standards defined by the Superintendence of Pensions and must review and evaluate these systems periodically.

Pension operators must submit annually financial statements to the Superintendence. Financial statements must be prepared separately for pension operators and pension funds and must be audited by an external auditor.

Pension operators must submit daily reports on the individual accounts, pension funds, contributions, investment returns, fees and benefits to the Superintendence.

The Superintendence must be provided with monthly reports on membership changes and must be informed of any single transfer to another operator that exceeds USD 10,000.

Whistleblowing

Mandatory personal scheme: Internal controllers must inform the Superintendence of Pensions if they believe that a pension operator and/or a pension fund is not being managed in compliance with legal requirements.

Standards for service providers

Mandatory personal scheme: Custodians must be authorized to perform custodial functions according to the Securities Market Law. The contract between the operator and the custodian must be approved by the Superintendence of Pensions.

Auditors must:

- Be registered with the College of Auditors of Costa Rica (*Colegio de Contadores Públicos de Costa Rica*);
- Have at least 3 years experience as an assistant to an auditor;
- Be independent of the pension operator for which they provide services;
- Submit a legal declaration to the Superintendence certifying that they fulfil these requirements.

The appointment of an auditor must be notified to the Superintendence. The same auditor must not provide services to a pension operator for more than three consecutive years. (This regulation has been suspended by the Constitutional Court and is being analyzed.)

Fees

Mandatory personal scheme: Pension operators' fees must be calculated based on rules issued by the Superintendence of Pensions. The fees must then be submitted to the Superintendece for approval.

Fees may vary between different pension funds managed by the same operator but must be the same for members who have chosen the same fund. Fees may be reduced for members after certain periods of membership only in voluntary pension plans.

Fees charged on investment returns must not exceed 8% of the nominal returns and fees charged on contributions must not exceed 4% of the contributions.

The fees and the method of their calculation must be disclosed to the members and the general public.

Winding up / Merger and acquisition

Mandatory personal scheme: Winding up, merger and acquisition of pension operators and pension funds administered by them is subject to authorization by the Superintendence of Pensions.

If a pension operator is wound up, the Superintendence must order the transfer of the administration of the pension funds to another pension operator. The Superintendence must publish information on this transfer in a national newspaper and members may choose a new operator within eight workdays.

Pension operators' debts to the pension funds have absolute priority over the debts to other creditors.

Upon merger and acquisition of pension operators,

members have the right to change their operator even if they would not be allowed to change under regular conditions.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: The Superintendence of Pensions may request pension operators to contract insurance against losses resulting from fraud. Operators must otherwise use their own assets to compensate members for losses if a judicial decision determines that the operator is responsible. If the operator's own assets are insufficient the government covers the remaining part of the loss (up to a maximum equal to total contributions in the mandatory scheme) and winds up the operator.

The government implicitly guarantees the payment of annuities since they are provided by a state monopoly.

Disclosure of information / Individual action

Mandatory personal scheme: Operators must provide members once every six months with information on their individual accounts. Upon request operators must provide members with certain additional information.

The Superintendence administers an arbitration procedure to settle conflicts between pension operators and their members.

Other measures

Mandatory personal scheme: None.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Tax-exempt.

Taxation of employer contributions

Mandatory personal scheme: Tax-deductible.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Tax-exempt.

Regulatory and Supervisory Authorities

Superintendence of Pensions: Regulates and supervises pension operators and service providers operating in the area of mandatory private pension schemes.

The Superintendence has the powers and functions to:

- Apply preventive measures and sanctions to supervised entities;
- Carry out all necessary actions to ensure effective regulation and supervision;
- Supervise the marketing activities of pension operators.

Three different levels of irregularities that lead to different actions by the Superintendence are legally defined:

- Irregularities of grade one that can, in the opinion of the Superintendence, be remedied by using short-term correction measures. The Superintendence informs the operator of a detected irregularity and sets a time limit for correcting it;
- Irregularities of grade two that can, in the opinion of the Superintendence, only be remedied by means of a long-term recovery plan. The Superintendence requests the operator to establish, and obtain its approval for, a detailed recovery plan;
- Irregularities of grade three that endanger the integrity of the operator with serious harmful effects on members and that require the intervention of the Superintendence or the replacement of the operator's directors. The National Council of the Financial Supervision (see below) declares a case of intervention and defines detailed measures to be carried out by the operator under the supervision of the Superintendence.

The Superintendence may request pension operators to provide any information with regard to their operations.

The Superintendence of Pensions is a nonintegrated supervisory authority.

A National Council for the Supervision of the Financial System (*Consejo Nacional de Supervisión del Sistema Financiero* - CONASSIF), consisting of representatives of different financial supervisory authorities and the responsible Ministries, coordinates the activities of different supervisory authorities.

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Dominican Republic

Exchange rate: USD 1.00 equals 28.60 pesos (DOP).

Regulatory Framework

2002: Decree 969; sets guidelines for compliance with Law 87/2001.

2001: Law 87; creates the Dominican System of Social Security which replaces the previous PAYG scheme and introduces the new private pension scheme; regulates the establishment and operation of pension fund administrators, asset management and the protection of rights, and creates the Pensions Superintendence (*Superintendencia de Pensiones* - (SP).

Types of Schemes

All covered persons must become members of the Dominican System of Social Security, comprising a:

- Contributory scheme for employees;
- Subsidized scheme for self-employed persons who have variable income lower than the minimum national salary;
- Contributory subsidized scheme for professionals, technicians and self-employed persons with incomes higher than the minimum national salary.

The system also includes a social solidarity fund, administered by the public pension fund administrator, to provide the minimum retirement benefit guarantee. A National Social Security Council (*Consejo Nacional de Seguridad Social - CNSS*) with state, employer and worker representatives was established under the law to oversee the system.

Membership of the contributory scheme is mandatory for all private-sector employees under age 45 in 2001. It is a defined contribution scheme financed by employer and employee contributions which are invested in individual accounts administered by pension fund administrators (*Administradoras de Fondos de Pensiones* - AFPs).

Workers may choose the AFP to which they wish to affiliate without any influence of their employer. They may transfer their individual account to another AFP every year as long as they have made at least 6 monthly contributions to the same AFP.

The subsidized scheme for the self-employed is financed entirely by the state and is not covered further in the following paragraphs.

The contributory subsidized regime is financed by members' and state contributions and was planned to start in August 2005 but has been postponed. It is not covered further in the following paragraphs.

Self-employed workers may voluntarily become members of the contributory scheme until the contributory subsidized scheme is implemented.

Public pension schemes (other than the old PAYG pension scheme) such as for the armed forces etc. may also remain in force if benefits provided by them are at least equal to those of the new contributory scheme for employees.

Members may pay voluntary contributions to their individual accounts.

Institutional Framework

Employees' contributory scheme: Pension fund administrators (AFPs) are financial institutions constituted according to Dominican Republic law and may be established as public, private or mixed companies.

AFPs must be established for the exclusive tasks of fund administration, investing individual account balances, and managing payments of pension benefits. They may establish and manage more than one pension fund and may also manage complementary pension funds (currently 21 complementary pension funds are managed by AFPs). The state must have at least one AFP. The public AFP Reservas also administers the social solidarity fund in accordance with the same pension fund regulations.

The Pensions Superintendence (SP) authorizes the

establishment of AFPs and thereafter supervises them. Financial institutions intending to establish an AFP must provide the following documents to the SP:

- Project of the social contract and statutes;
- Details of the stockholders, managers, board members and main executive officers;
- The establishment and operational plan for the AFP;
- The AFP's feasibility study;
- Organization, policies and procedures draft manual;
- Information technology system plan;
- Name of the executive and their deputy who will interact with the Superintendence;
- Fees policy;
- Investment policy of the funds complying with legally established limits.

At their establishment, AFPs must have a minimum capital of DOP 12,874,000 which has to be increased by 10% for each 5,000 members in excess of 10,000. The minimum capital requirement is adjusted every January according to the consumer price index calculated by the Dominican Central Bank.

Currently seven AFPs exist:

- AFP Siembra
- AFP Reservas (state owned)
- BBVA Crecer AFP
- AFP Popular
- AFP León
- AFP Caribalico
- AFP Romana

Members of the board of directors of AFPs cannot be executives or members of the board of commercial banks, mutual or investment funds, stock exchange, financial intermediaries and stock brokers.

At least 95% of the pension fund assets managed by an AFP must be held in the custody of the Dominican Central Bank, which keeps separate accounts for each pension fund.

Each AFP must have at least one public caller office in order to provide specialized information to members. AFPs may also open regional and foreign offices to provide a better service to members.

Each AFP must sign a collective life contract with an insurance company to guarantee the funding of survivor and disability benefits.

The Treasury of Social Security (*Tesorería de la Seguridad Social* - TSS) collects contributions and distributes them to the appropriate AFP for payment into the individual accounts, and to pay the administration fees and life insurance premiums. AFPs are responsible for benefit and fund administration.

Social solidarity fund: The state owned AFP Reservas administers this fund in accordance with the pension fund regulations applying to all AFPs.

Coverage

Covered population

Employees' contributory scheme: The scheme is mandatory for all private-sector employees aged 45 or less in August 2001, for all new employees who did not belong to the old scheme, and for those who receive regular payments as directors or owners of enterprises. The scheme was implemented on 1 June 2003.

Public-sector employees covered by special laws (Law No. 379-81 and No. 414-98), public- and private-sector employees aged over 45 in August 2001, Dominicans living abroad and those who belonged to pension schemes (other than the old PAYG scheme) such as for the armed forces etc. may all voluntarily choose to belong to the employees' contributory scheme. However, once the option is made members cannot return to their previous scheme.

Self-employed workers may voluntarily become members of the contributory scheme until the contributory subsidized scheme is implemented.

Social solidarity fund: Not applicable.

Enforcement of affiliation

Employees' contributory scheme: Covered persons have 30 days in which to choose to which pension

fund administrator (AFP) to affiliate. If a person does not choose, the employer must, within a further 10 days, affiliate the person to the AFP with the largest membership base among the company's employees.

AFPs may contract with marketing agents to promote the AFP and acquire new members. Marketing agents must be authorized by, and registered with, the Pensions Superintendence (SP).

AFPs are not allowed to refuse any request for membership from eligible persons and members cannot have more than one individual account.

Social solidarity fund: Not applicable.

Financing / Investment

Sources of funds

Employees' contributory scheme: Total monthly employer/employee contribution is 7.6% of the contributory salary split as follows:

- 6% for the individual account;
- 1% maximum for the member life insurance;
- 0.5% for the AFP administration fee;
- 0.1% for financing the Pension Superintendence (SP).

The individual account percentage will increase 1% in 1 June 2006 and 1% in 1 June 2007.

Employers must pay their own and employees contributions within the first 3 working days of the following month.

Social solidarity fund: Employers pay 0.4% of members' contributory salary.

Member contributions

Employees' contributory scheme: 2.28% (30% of the total employer / employee contribution rate) of the monthly contributory salary.

The minimum contributory base salary for employees is the legal minimum wage of the sector in which the member works. The maximum is 20 times the monthly national legal minimum salary (i.e. 20 times DOP 4,900). If affiliate members have more than one job, or perform independent activities in addition to their normal employment, contributions are paid on the sum of all salaries.

Voluntary contributions are not yet regulated.

Social solidarity fund: None.

Employer contributions

Employees' contributory scheme: 5.32% (70% of the total employer / employee contribution rate of 7.6%) of members' monthly contributory salary.

The minimum contributory base salary for employees is the legal minimum wage of the sector in which the member works. The National Social Security Council (CNSS) had not specified the minimum monthly sectoral salaries by January 2005. The maximum is 20 times the monthly national legal minimum salary (i.e. 20 times DOP 4,900).

Social solidarity fund: 0.4% of members' contributory salary.

Other sources of funds

Employees' contributory scheme: None.

Social solidarity fund: None.

Methods of Financing

Employees' contributory scheme: Funded in individual accounts.

Social solidarity fund: Not applicable.

Asset Management

Employees' contributory scheme: Pension fund administrators (AFPs) must invest the assets of the pension funds that they manage in the following legally established asset classes:

- Up to 70% in corporate obligations;
- Up to 60% in term deposits and related obligations issued by the banking system;
- Up to 30% in mortgages (housing);
- Up to 30% in quoted shares;
- Up to 20% in development housing funds;
- Up to 10% in obligations issued by the National Housing Bank.

All transactions must be made in formal markets.

A Qualifying Risk Commission, which also determines the diversification of investments among the general categories, sets the above-mentioned limits for investing in those instruments and sets risk ratings. The commission comprises the Superintendents of Pensions, Banking, and Insurance, the President of the Securities Commission, the President of the Dominican Central Bank and a technically qualified person representing the scheme members. The quorum for any meeting of the Commission is three and decisions are taken on a majority basis. Decisions are published in the national press.

AFPs may not invest pension fund assets in shares of other AFPs, insurance companies, or rating agencies. Investment of pension fund assets in companies owned by shareholders or executives of the AFP managing the fund is limited to a maximum of 5% of the total fund.

AFPs must guarantee a minimum real rate of return which must not be less than the weighted average real rate of return of all pension funds minus 2%. To guarantee the minimum real rate of return, AFPs must establish a guarantee return account that is equal to 1% of the pension fund assets and may not be used for any other purpose. If it is not sufficient to pay any deficit in the minimum real rate of return, AFPs must use their own assets to cover it.

AFPs have 15 days to redress any deficit in the real rate of return. If they do not do so the Pensions Superintendence (SP) will revoke its authorization and the AFP will be wound up without judicial intervention.

Social solidarity fund: The state owned AFP Reservas must administer the social solidarity fund in accordance with the same regulations that apply to pension funds.

Benefit provisions

Preservation, portability, transferability

Employees' contributory scheme: Members may transfer their individual account balance from one pension fund administrator (AFP) to another after completing at least 6 monthly contributions to the same AFP. Members can also transfer their accounts at any time if the AFP's rate of return is less than the minimum established by law (see section Asset Management) for 2 continuous or 3 discontinuous months or if the AFP breaks the affiliation contract. Members may also transfer to another AFP within 3 months of notification that their current AFP is to be merged with another.

Members may decide annually the portfolio in which they wish to invest. If a member does not choose any of the funds available the AFP must invest the member's assets in the fund managed by the AFP that has the lowest risk.

Social solidarity fund: Not applicable.

Retirement Benefits

Benefit qualifying conditions

Employees' contributory scheme: Men and women age 60 or over with 360 or more months of contributions or men and women age 55 or over with an individual account balance sufficient to provide a benefit higher than 50% of the minimum monthly benefit.

Members age 57 or over (men and women) with 300 months of contributions who are unemployed may receive advanced-age unemployment benefit.

Social solidarity fund: Members age 65 or over (men and women) who have contributed for 300 months or more but whose individual account is not sufficient to finance the minimum monthly benefit may receive a supplement from the social solidarity fund to raise the benefit up to the minimum level.

Withdrawal of funds before retirement

Employees' contributory scheme: Not permitted.

Social solidarity fund: Not applicable.

Benefit structure / formula

Employees' contributory scheme: Retirement benefit may be paid as programmed withdrawals or as a life annuity.

- In the case of programmed withdrawals the account balance remains with the pension fund administrator (AFP) which then pays the retirement benefit to the member. At any time the member may change the payment method to life annuity.
- In the case of life annuity the account balance is transferred to an insurance company chosen by the member. The insurance company will pay the life benefit. Once made, this choice is irrevocable. Only members whose individual account balance is sufficient to finance the minimum monthly benefit may choose this method of payment.

In both cases the amount of the benefit is determined by actuarial methods and the individual account balance.

Programmed withdrawals and life annuities are calculated according to the real technical interest rate of 5%.

The retirement benefit is paid monthly plus one additional monthly payment at the end of the year.

The minimum monthly retirement benefit is equal to the lowest sectoral minimum monthly salary. The National Social Security Council (CNSS) had not specified the minimum monthly sectoral salaries by January 2005 and therefore not set the minimum monthly retirement benefit.

Members who meet the conditions for advanced-age unemployment benefit may receive a life annuity equal to the minimum monthly benefit financed with the individual account balance topped up from the social solidarity fund if necessary.

Advanced-age unemployment benefit may not be higher than the last salary received by the member whilst still in employment.

Members who have paid less than 300 months of contributions receive retirement or advanced-age unemployment benefit paid with the individual account balance only. In this case members may pay additional contributions to bring the contributions up to 300 months or wait until age 65 to receive the social solidarity fund top-up in order to receive the minimum monthly benefit.

Members age 45 or less when the new scheme came into force and those who opted for the new scheme will receive a recognition bond with an annual real rate of return of 2% payable at retirement.

Beneficiaries with two or more benefits, or with vested rights, keep these benefits or rights if they are derived from different contributory schemes when the new employees' contributory scheme came into force.

Social solidarity fund: Provides a supplement where necessary to raise the retirement benefit up to the minimum monthly benefit.

Benefit adjustment

Employees' contributory scheme: All retirement benefits are adjusted according to the consumer price index.

Social solidarity fund: Not applicable.

Survivors

Benefit qualifying conditions

Employees' contributory scheme: Deceased members must have been active insured members at the date of death. Eligible survivors are:

- Spouse married to the deceased for at least 6 months prior to the date of the insured member's death, or companion who proves at least 3 years of cohabitation. These conditions may be waived if the spouse / companion is pregnant or disabled;
- Children under age 18 (under age 21 if student, without age limit if disabled).

If there are no eligible survivors the member's individual account balance is paid to the heirs.

Social solidarity fund: Not applicable.

Benefit structure

Employees' contributory scheme: Survivor

benefit is calculated as a percentage of the deceased member's base salary, as follows:

- 50% for an eligible spouse or companion;
- 50% for eligible children.

Benefit paid to an eligible spouse or companion lasts 60 months if the survivor is aged 50 or less, 72 months if between age 50 and age 55, and for life if over age 55.

The base salary is the average of the member's last 3 years' contributory salary adjusted according the consumer price index.

If there is no eligible spouse or companion, the 50% spouse / companion benefit is divided among eligible children. If there are no eligible children, the spouse / companion survivor benefit remains at 50% of the member's base salary.

Percentages for other survivors do not increase if beneficiaries lose the right to receive benefits.

Minimum survivor benefit is 60% of the base salary. Maximum benefit is determined by the contributory salary's upper limit.

Survivor benefit is financed with the individual account balance plus the insurance company payment. The insurance company pays the survivor benefit monthly with one additional monthly payment at the end of the year.

Social solidarity fund: Not applicable.

Benefit adjustment

Employees' contributory scheme: Survivor benefits are adjusted according to the consumer price index.

Social solidarity fund: Not applicable.

Disability

Benefit qualifying conditions

Employees' contributory scheme: Disability benefit may only be paid once entitlement to any sickness benefit from ordinary risk has been exhausted.

Total disability benefit is paid when work capacity is reduced by at least 67%. Partial disability benefit is paid when work capacity is reduced between 50% and 67%.

Members must have paid all contributions at the date of onset of disability.

The degree of reduction in work capacity must be certified by the Departmental Qualifying Commission which awards full or partial disability benefit or denies the request. Three years after the preliminary decision, the member will be recalled by the commission, which can then certify permanent disability benefit or revoke its previous decision.

Social solidarity fund: Not applicable

Benefit structure

Employees' contributory scheme: Total disability benefit is 60% of the base salary. Partial disability benefit is 30% of the base salary.

The base salary is the average of the member's last 3 years' contributory salary adjusted according to the consumer price index.

Disability benefits are financed by the insurance company. Contributions must continue to be paid by the insurance company (deducted from the disability benefit) into the member's individual account.

Minimum and maximum disability benefits are determined by the contributory salary limits.

Social solidarity fund: Not applicable.

Benefit adjustment

Employees' contributory scheme: Disability benefits must be adjusted every 3 years.

Social solidarity fund: Not applicable.

Protection of Rights

Protection of Assets

Employees' contributory scheme: Pension fund assets must be held in individual accounts and are the exclusive property of the respective affiliate members. Assets must be kept separately from the assets of the pension fund administrator (AFP) and must be only

used to finance benefits.

At least 95% of the pension fund assets managed by an AFP must be held in the custody of the Dominican Central Bank, which keeps separate accounts for each pension fund.

Social solidarity fund: Not applicable.

Financial and Technical Requirements / Reporting

Employees' contributory scheme: Pension fund administrators (AFPs) must provide daily information to the Pensions Superintendence (SP) related to the operation of individual accounts and financial trading of pension fund assets. They must also report monthly to the SP on the composition, amount and limits of the portfolio of each fund that they manage.

AFPs' financial reports must be backed by the corresponding documentation in compliance with guidelines established by the SP, general accounting principles or international accounting standards. AFPs have to keep physical and electronic records of the required files.

AFPs must publish an annual report in the press or by other means which must include the:

- Balance sheet;
- Income statement;
- Changes in the assets statement;
- Cash flow positions;
- Explanatory notes to the financial positions.

Each AFP must publish in a national newspaper end of year financial information for the AFP and for the pension funds it manages no later than 15 April every year. Financial reports must be audited by external auditors authorized by the SP.

AFPs must also publish, at least quarterly, in a national newspaper position statements and result accounts for itself and for the pension funds managed.

Social solidarity fund: Not applicable.

Whistleblowing

Employees' contributory scheme: No legal rules.

No legal responsibility on service providers to inform the Pension Superintendence (SP) about violations of legal requirements.

Social solidarity fund: Not applicable.

Standards for service providers

Employees' contributory scheme: External auditors that audit financial reports must be authorized by the Pension Superintendence (SP). Marketing agents of pension funds administrators must be authorized by, and registered with, the SP.

No legal requirements for actuaries to be authorized by, or registered with, the SP.

Social solidarity fund: Not applicable.

Fees

Employees' contributory scheme: Pension fund administrators (AFPs) charge a monthly fee for the administration of individual accounts, regardless of investments returns, which must be a maximum of 0.5% of the contributory salary. AFPs may charge an additional annual fee of up to 30% of the return achieved above the rate of interest on deposits in commercial banks, but the minimum return on the individual account cannot be less than the AFP's average return minus 2% (see section Asset Management). AFPs may also charge for optional services provided at the explicit request of members.

Transaction costs of trading pension fund assets are charged as an administrative expense of the AFP and do not reduce the pension fund return.

Fees charged by AFPs must be published in two national newspapers.

Social solidarity fund: Not applicable.

Winding up / Merger and acquisition

Employees' contributory scheme: Mergers of pension fund administrators (AFPs) must comply with the provisions of the Commerce Code and must be authorized by the Pension Superintendence (SP). Following authorization, notice of the merger and commissions charged by the resulting AFP must be

published in two national newspapers within 5 days of the merger taking place. Mergers must not reduce AFPs' and pension funds' assets.

Members must be informed of the merger and may transfer to another AFP within 3 months of the notification.

Social solidarity fund: Not applicable.

Bankruptcy: Insolvency Insurance / Compensation Fund

Employees' contributory scheme: A pension fund administrator (AFP) is considered bankrupt when it manifestly and continuously is unable to comply with the minimum capital requirements and to meet its liabilities, even if it has not started the formal bankruptcy process.

If the AFP does not reach the minimum capital (see section Institutional framework) in the specified time the Pensions Superintendence (SP) will revoke its authorization to operate and will order its dissolution and liquidation. Members of the bankrupt AFP should choose a new AFP within 30 days of the date of the order. If they do not choose an AFP they will be assigned to one by the Treasury of Social Security (TSS) according to the AFP's market share.

The SP may also appoint an administrator to manage the AFP during the liquidation process.

Social solidarity fund: Not applicable.

Disclosure of information / Individual action

Employees' contributory scheme: Every 6 months, pension fund administrators (AFPs) must notify members of their individual account's position, indicating changes in the account balance, deposits made, return of the fund, commissions charged and number and current value of the quotas. The information must be sent no later than 30 days after the end of each six-month period (i.e. 30 June and 31 December). Affiliates can ask AFPs for additional account position statements, but the AFP will charge the member for these additional optional services.

AFPs must announce in an accessible place for members a report with the following information:

- Institutional background;
- Amount of the AFP's and its pension funds' quota value;
- Commissions charged
- Name of the contracted insurance company and the amount of premiums paid;
- Total assets and asset allocation of the pension fund portfolios;
- Pension funds' average return in the last 12 months.

The Direction of Members' Information and Defence (*Dirección de Información y Defensa de los Afiliados*), a public office under the supervision of the National Counsel of Social Security (CNSS), provides assistance to members. It is responsible for members' orientation and defence informing them about their rights and duties, attending to their requests, investigating complaints. It provides orientation services and legal support for free.

Social solidarity fund: Not applicable.

Other measures

Employees' contributory scheme: No legal rules.

Social solidarity fund: No legal rules.

Tax Treatment

Taxation of member contributions

Employees' contributory scheme: Mandatory contributions are tax-exempt. Voluntary contributions are tax-exempt up to three times the mandatory contribution.

Social solidarity fund: Not applicable.

Taxation of employer contributions

Employees' contributory scheme: Tax-exempt.

Social solidarity fund: Not applicable.

Taxation of investment income

Employees' contributory scheme: Tax-exempt.

Social solidarity fund: Not applicable.

Taxation of benefits

Employees' contributory scheme: Tax-exempt up to a maximum monthly benefit of five times the minimum monthly national salary (i.e. 5 times DOP 4,900).

Social solidarity fund: Not applicable.

Regulatory and Supervisory Authorities

Pensions Superintendence: The Pensions Superintendence (SP) is an autonomous public institution with legal authority to oversee the employees' contributory scheme.

The chief executive of the SP is the Pensions Superintendent appointed by the National Counsel of Social Security (CNSS) and designated by decree of the Executive Branch of the national government for a four-year period, with the possibility of re-appointment. The Superintendent must be Dominican, be at least age 30, have professional qualifications, at least 5 years experience, demonstrate administrative and managerial competence and qualify for a fidelity bail. The Superintendent may be suspended in case of serious fault.

The SP has the power to request and examine at any moment all information about pension fund administrators (AFPs) and the pension funds they manage. The SP authorizes the establishment of AFPs and may also decree their dissolution or liquidation.

The Superintendence oversees pension funds' investments, establishes standards for financial statements, determines the minimum requirements for insurance contracts and oversees service providers (i.e. custodians, risk rating agencies, insurance companies). It may also impose sanctions on AFPs.

The SP, jointly with the Insurance Superintendence, authorizes the establishment of, and supervises, insurance companies that offer annuities to members.

The SP is financed by 0.1% of the contributory salary discounted from the total employer / employee contribution.

Superintendencia de Pensiones
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El Salvador

Exchange rate: USD 1.00
equals 8.75 colones (SCV).

Regulatory Framework

1996: Decree No. 926; establishes the Superintendence of Pensions to supervise the system of mandatory private pension schemes and regulates its structure, functions and powers.

1996: Decree No. 927; creates the system of mandatory private pension schemes, regulates the establishment and operation of pension fund administrators and contains rules to protect the rights of members.

Types of Schemes

All covered persons must become members of the mandatory private pension scheme through signing an affiliation contract with a pension fund administrator (*Administradora de Fondos de Pensiones* - AFP).

Mandatory private pension schemes are defined contribution and assets are accumulated in individual accounts.

Covered persons may choose any AFP for membership without influence of their employer.

Members and their employers may make voluntary additional contributions to the individual account on an occasional or a regular basis.

Institutional Framework

Mandatory personal scheme: AFPs must be established as public limited companies with the single business aim of establishing and managing one open pension fund.

The establishment of an AFP is subject to the authorization of the Superintendence of Pensions. Founders of an AFP must, together with the application for authorization, submit the following information and documents with regard to the AFP:

- Draft statutes;
- Details of its founders;
- A financial feasibility study;
- An implementation plan;
- Details of the amount of capital that will be paid-in at the start of its operations;
- Details of its shareholders;
- Details of its directors.

AFPs must upon establishment comply with a minimum capital requirement of SVC 5 million, increasing to SVC 7.5 million if the AFP has 20,000 members and to SVC 15 million when it has 40,000. Minimal capital requirements are adjusted every 2 years in line with the Consumer Price Index. In addition, the assets of the AFP itself must exceed 3% of the value of the pension fund assets under management but must not exceed USD 10 million.

The share capital of an AFP must consist of nominative shares owned by at least ten shareholders. At least 50% of the shares must be jointly or separately owned by:

- Individuals from El Salvador or Central America;
- Legal entities established in El Salvador of which the majority shareholders are individuals from El Salvador or Central America;
- Foreign pension fund administrators that comply with legal requirements in their home country and that have 3 years of business experience;
- International financial institutions and investment institutions related to them, in which the state and the Central Reserve Bank have a stake.

Shareholders of an AFP must not be:

- Insolvent or bankrupt;
- Persons sentenced for crimes against the treasury.

Banks, insurance companies, stock exchanges, stock brokers, rating agencies and public institutions of any nature must neither establish nor own shares of an AFP.

Shareholders acquiring more than 1% of the shares of an AFP must obtain prior approval from the Superintendence.

AFPs must have their headquarters in El Salvador.

Each AFP must be governed by a board of directors consisting of at least five members. Members of the board of directors must:

- Be older than age 25;
- Have a recognized and sound reputation;
- Demonstrate financial or managerial competence;
- Not be insolvent or bankrupt;
- Not be employees of another AFP;
- Not be employees of a bank or other financial institution;
- Not have been sentenced for business related offences or crimes;
- Not be public officers;
- Not be legally incompetent.

AFPs may contract some administrative functions, such as the collection of contributions or data processing, to external service providers. Service providers must be authorized by the Superintendence unless they only carry out certain nonessential services.

AFPs manage the benefit administration if the programmed withdrawals option is chosen (see section, Retirement benefits, Benefit structure / formula). Annuities are provided by licensed life insurance companies.

AFPs must contract insurance policies with insurance companies to provide for survivor and disability insurance outside the workplace. Occupational disability and survivor insurance is provided through a publicly managed social security scheme.

Coverage

Covered population

Mandatory personal scheme: Private- and public-sector employees.

Membership is voluntary for all economically active persons (e.g. the self-employed) who are not covered by law and who are not explicitly excluded (such as certain disability pensioners, employees of the armed forces who are members of a special scheme and members of certain related schemes such as veterans who lost their employment as a result of the 1992 peace agreements).

Enforcement of affiliation

Mandatory personal scheme: Employees must sign an affiliation contract with an AFP within 30 days of becoming covered. If they do not comply with this requirement their employers must affiliate them to the AFP that has the largest membership base among their employees.

AFPs must not refuse any application for membership from covered persons.

AFPs may contract with marketing agents to carry out promotion of the AFP and acquisition of new members. Marketing agents are service providers and as such must be licensed by the Superintendence of Pensions. In order to obtain and keep this license, marketing agents must be supported by an AFP and annually pass an exam organized by the Superintendence. The authorization is withdrawn indefinitely if a marketing agent fails the exam once. Marketing agents may only provide services to one AFP at any one time.

Financing / Investment

Sources of funds

Mandatory personal scheme: The total member and employer contribution is 13% of salary.

The minimum earnings considered for contributions purposes are equal to the legal minimum wage (USD 151.2 a month for the exporting manufacturing sector, otherwise USD 158.4).

Member contributions

Mandatory personal scheme: Employees contribute 6.25% of salary of which 3.25% is allocated to the individual account and 3% finances the premiums for survivor and disability insurance and the administrative costs of the AFP.

Self-employed persons contribute 13% of income.

The minimum earnings considered for contributions purposes are equal to the legal minimum wage (USD 151.2 a month for the exporting manufacturing sector, otherwise USD 158.4).

Employer contributions

Mandatory personal scheme: Employers contribute 6.75% of salary. The total employer contribution is allocated to the employee's individual account.

The minimum earnings considered for contributions purposes are equal to the legal minimum wage (USD 151.2 a month for the exporting manufacturing sector, otherwise USD 158.4).

Other sources of funds

Mandatory personal scheme: None.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

AFPs must finance disability and survivor benefits through insurance contracts with insurance companies.

Asset Management

Mandatory personal scheme: Each AFP must establish and manage one pension fund. The asset management cannot be contracted to external asset managers.

Legal quantitative restrictions on the investment of pension fund assets apply. A risk commission (see section Regulatory and supervisory authorities) consisting of representatives of various financial supervisory authorities:

- Establishes detailed limits on the investment of fund assets in different investment instruments and risk categories within a general framework established by law;
- Defines the maximum risk level for securities in which pension fund assets may be invested.

AFPs must establish an investment policy in line with the investment regulations determined by the risk commission.

Pension fund assets must not be invested in shares issued by:

- Other AFPs;
- Insurance and mutual fund companies;
- Investment fund management companies;
- Rating agencies;
- Stock exchanges;
- Stockbrokers;
- Custodians.

Pension fund assets must not be invested in securities issued or guaranteed by companies directly or indirectly related to the shareholders or directors of the AFP.

Of total pension fund assets invested a maximum of 6% may be in securities issued or guaranteed by a single company and a maximum of 30% may be in a single investment fund. Pension funds must not hold more than 10% of all securities issued by a single issuer or business group or more than 5% of the shares issued by a single issuer.

AFPs must credit a monthly minimum nominal rate of return to the members' individual accounts of at least the lesser of:

- The nominal mean monthly rate of return of all pension funds in the last 12 months minus 3 percentage points; and
- 80% of the nominal mean rate of return of all pension funds in the last 12 months.

Pension fund assets must be held by a custodian.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Members may change their AFP provided that they have been members of their current AFP for at least 6 months.

Members can, however, change their AFP at any time if:

- The rate of return achieved by their AFP falls below the minimum rate of return for two consecutive or three nonconsecutive months;
- It does not comply with its obligations arising

from the affiliation contract.

AFPs must not charge any fee for the transfer of a member's capital to another AFP.

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: Members are eligible for retirement benefits if:

- The capital accumulated in their individual account is sufficient to finance a benefit not lower than 60% of their monthly average salary in the previous 120 months and exceeding 160% of the minimum old-age pension; or
- They are aged 60 (men) or 55 (women) and have contributed for at least 25 years.

Members may defer retirement beyond their normal retirement age.

The government provides a minimum old-age pension to retirees aged 60 (men) and 55 (women) who have contributed for at least 25 years and whose accumulated capital is not sufficient to finance a benefit at least equal to the minimum old-age pension.

Withdrawal of funds before retirement

Mandatory personal scheme: Not permitted.

Benefit structure / formula

Mandatory personal scheme: Defined contribution.

Retirees may choose between three benefit options:

- Immediate annuity purchased from a life insurance company of their choice;
- Programmed withdrawals with deferred annuity in which case only a part of their accumulated capital is transferred to a life insurance company of their choice to purchase an annuity payable from an agreed date while the remainder is used to provide programmed withdrawals until this date. The deferred annuity must not be lower than 50%, and not exceed 100%, of the amount of the first programmed withdrawal;
- Programmed withdrawals paid by the AFP and charged against the balance of their individual account. The amount that can be withdrawn is recalculated each year.

Only licensed life insurance companies may provide annuities. Annuities may be denominated in either USD or SVC.

The minimum old-age pension is USD 114 a month. This amount is adjusted annually in the Budget Law based on changes in the average contributory salary and the resources of the government.

Benefit adjustment

Mandatory personal scheme: Annuities denominated in SVC must be indexed to the Consumer Price Index.

Annuities denominated in USD and programmed withdrawals are not indexed.

Survivors

Benefit qualifying conditions

Mandatory personal scheme: The death of the member or the pensioner must not be due to a work accident or occupational disease. Survivor benefit resulting from the death of a member through a work accident or occupational disease is covered by a publicly managed social security scheme. Unemployed persons must have 6 months of contributions in the 12 months before the date of the death.

Eligible survivors are the:

- Spouse or common law companion (the latter must submit proof from the family court of cohabitation);
- Orphans under age 18 (age 24 if student, no age limit if disabled);
- Dependent parents.

The government provides minimum survivor pensions if the deceased member has contributed for 10 years in total, or for 3 years in the 5 years prior to death, and the survivor pensions are lower than the minimum pensions.

Benefit structure

Mandatory personal scheme: Survivor benefits are financed by means of a separate insurance policy. The

capital required to finance the prescribed survivor pensions (see below) is calculated and the insurance company provides for the difference between this required capital and the capital accumulated in the deceased member's individual account.

Survivor pensions are based on the deceased member's reference pension (70% of the deceased member's monthly average salary in the 120 months prior to death or of the benefit if a pensioner) and are provided as follows:

- 60% for the spouse/companion if no eligible orphans;
- 50% for the spouse/companion if eligible orphans (increases to 60% when the pensions to the orphans cease);
- 25% for each eligible orphan (if no eligible spouse/companion the 50% above is divided between the eligible orphans subject to the overall maximum below);
- 20% for each of the father and mother, or 30% if only one of them is alive (increases to 40% and 80% respectively if there are no other eligible survivors).

The total survivor pensions must not exceed 100% of the deceased member's monthly average salary in the 120 months prior to death.

The minimum survivor pensions differ between eligible survivors and must in total not exceed the minimum old-age pension of USD 114 a month.

Disability

Benefit qualifying conditions

Mandatory personal scheme: Disability benefits are provided to members with a permanent reduction in work capacity not due to a work accident or occupational disease. Disability caused by a work accident or occupational disease is covered by a publicly managed social security scheme. The reduction in work capacity must be certified by a commission consisting of three medical doctors appointed by the Superintendence of Pensions. The first certification of disability is issued for 3 years after which the disability is re-assessed and a final decision is made.

A full pension is payable to members with a reduction in work capacity of at least 66% and a partial pension to members with a reduction in work capacity of at least 50%. Unemployed persons must have 6 months of contributions in the 12 months before the onset of disability.

The government provides a minimum disability pension to disabled members who have contributed for 10 years in total, or for 3 years in the 5 years prior to the onset of disability, if the member's disability pension is lower than the minimum pension.

Benefit structure

Mandatory personal scheme: Disability benefits are financed by means of a separate insurance policy. The insurance company makes a preliminary payment to the AFP to finance the prescribed disability pension (see below) during the first 3 years of benefit payment. Once the disability is confirmed, the capital required to finance the permanent disability pension is calculated and the insurance company provides for the difference between this required capital and the capital accumulated in the disabled member's individual account.

A full disability pension equals 70%, and a partial disability pension 50%, of the disabled member's monthly average salary in the 120 months prior to the onset of disability.

A constant attendance supplement of 20% of the pension is paid if a person requires permanent assistance.

The minimum disability pension is USD 114 a month in the case of total disability and USD 79.8 a month in the case of partial disability.

Protection of Rights

Protection of Assets

Mandatory personal scheme: Pension fund assets are the property of the members and must be kept separately from the assets of the AFP.

Pension fund assets must be held by a custodian.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: AFPs must establish a return fluctuation and a special guarantee reserve and report daily to the Superintendence of Pensions on the values of these reserves.

The return fluctuation reserve must be funded by returns on the investment of pension fund assets exceeding the higher of:

- The nominal monthly mean rate of return of all pension funds in the last 12 months plus 3 percentage points; or
- 120% of the nominal mean rate of return of all pension funds in the last 12 months.

The special guarantee reserve must be funded by the AFP's own assets.

The return fluctuation reserve must be used to compensate for investment returns below the minimum rate (see section Asset management). If the return fluctuation reserve is not sufficient to cover the shortfall, the special guarantee reserve must be used to cover the remaining deficit. If both reserves are insufficient, the AFP must use its own assets. If the latter are not sufficient to cover the deficit within 90 days, the Superintendence must revoke the authorization of the AFP.

Financial statements for the AFP and its pension fund must be audited by an auditor once a year, submitted to the Superintendence and published in two national newspapers.

AFPs must establish internal control measures to assess financial risks and to ensure compliance with prudential management standards. An auditor must be appointed to review these measures.

Whistleblowing

Mandatory personal scheme: Auditors must immediately inform the Superintendence of Pensions if they believe that the AFP or the pension fund is not being managed in compliance with legal requirements.

Standards for service providers

Mandatory personal scheme: Custodians must be established in compliance with the Capital Markets Law, authorized by the Superintendence of Securities and registered as service providers to AFPs with the Superintendence of Pensions.

Auditors must be authorized by the Superintendence of Pensions.

All other service providers must be authorized by the Superintendence unless they merely carry out certain nonessential services.

Fees

Mandatory personal scheme: The total fee charged by the AFP to finance disability and survivor insurance and administrative costs must not exceed 3% of salary (see section Sources of funds, Member contributions). Disability and survivor insurance coverage is not required for members who qualify for old-age benefits but continue contributing and AFPs may charge a fee up to 1.5% of salary to such members.

A maximum fee of 1.5% of each withdrawal may be charged for the administration of programmed withdrawals.

AFPs may charge a fee of up to 5% of the investment return and not exceeding 1.5% of the member's average contributory salary in the last 12 months for which contributions were made for administering individual accounts that are inactive for more than 1 year (e.g. if members cease any employment and do not contribute) and the balances of which exceed 100 times the minimum wage.

Winding up / Merger and acquisition

Mandatory personal scheme: The voluntary winding up of an AFP is subject to the authorization of the Superintendence of Pensions. An AFP must be wound up if:

- It is not able to credit the prescribed minimum rate of return to its members' individual accounts;
- It has not complied with the minimum capital or

reserve requirements;
- The Superintendence revokes the authorization of the AFP.

The Superintendence appoints liquidators to administer the windup of AFPs.

The assets belonging to an AFP that is wound up are distributed in the following order of priority:

- Salaries to the AFP's employees and social security contributions;
- Minimum rate of return to the individual accounts;
- Liabilities with the pension fund that affect the members' individual accounts;
- Obligations with the state and municipalities including taxes;
- Liabilities to other creditors.

Mergers are subject to authorization by the Superintendence and must be announced in a national newspaper together with information on the fees charged by the AFP resulting from the merger. Members may transfer their assets to another AFP of their choice. Mergers must not lead to a reduction in the members' accumulated capital.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: There is no requirement for insolvency insurance and no compensation fund exists.

There is no state guarantee for annuities in the case of bankruptcy of a life insurance company.

The government guarantees payment of minimum old-age, disability and survivor pensions.

Disclosure of information / Individual action

Mandatory personal scheme: AFPs must at least every 6 months provide members with a detailed account statement indicating all transactions with regard to their account during the last 6 months.

Each member must be provided with a booklet for pension savings in which the AFP must upon request and up to six times a year enter the number and value of pension fund units owned by the member.

A report containing the following information must be easily accessible for members in the offices of their AFP:

- Details of the AFP (e.g. contact details and information on the members of the board of directors);
- Most recent financial statements for the AFP and its pension fund;
- Details of the AFP's capital, the assets of the pension fund and the return fluctuation and special guarantee reserves;
- Pension fund investment policy and asset allocation;
- Fees charged by the AFP with details of the premiums paid for disability and survivor insurance;
- Rate of return during the last 12 months.

The Superintendence of Pensions receives complaints from members regarding the actions of their AFP. The Superintendence has no capacity to settle disputes by law but it may sanction AFPs in the case of noncompliance with legal requirements.

Members can sue the directors of their AFP in court since the membership of an AFP is a contractual relationship.

Other measures

Mandatory personal scheme: None.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Tax-deductible.

Taxation of employer contributions

Mandatory personal scheme: Tax-deductible.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Taxed as income.

Regulatory and Supervisory Authorities

Superintendence of Pensions: Supervises AFPs and other institutions operating in the area of mandatory private pensions.

The Superintendence may examine at any time all books, archives, accounts and information with regard to an AFP that it deems necessary.

The Superintendence may impose sanctions on supervised entities for breaches of legal requirements and order the winding up of an AFP.

A risk commission has been established within the Superintendence of Pensions to determine investment restrictions. The risk commission must meet at least once a year and consists of:

- The Superintendent of Pensions;
- The Superintendent of Securities;
- The Superintendent of the Financial System;
- The President of the Central Reserve Bank.

The Superintendence is a nonintegrated supervisory authority that is partly financed through a levy on supervised entities of 4% of the fees charged by them.

Superintendencia de Pensiones
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Antiguo Edificio del BCR, 1er. Nivel
San Salvador
El Salvador
Tel.: (+503) 281 8999
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Internet: www.spensiones.gob.sv

Mexico

Exchange rate: USD 1.00 equals 10.88 new pesos (MXN).

Regulatory Framework

1999: Law for the Protection and Defence of Financial Service Users; creates the National Commission for the Protection and Defence of Financial Service Users (*Comisión Nacional para la Defensa de los Usuarios de Servicios Financieros* - CONDUSEF) to respond to and resolve any inquiries or claims that are presented to it, to conduct the necessary conciliatory procedures and to offer guidance and legal advice to users in any dispute brought to court by them against financial institutions.

1996: Regulations to the Retirement Savings Systems Law; specifies some of the requirements defined in the Retirement Savings Systems Law.

1996: Retirement Savings Systems Law; defines the structure and powers of the Mexican Pension Fund Regulatory and Supervisory Agency, the National Commission for the Retirement Savings System (*Comisión Nacional del Sistema de Ahorro para el Retiro* - CONSAR) and regulates the establishment, operation and supervision of Retirement Fund Administrators (*Administradoras de Fondos para el Retiro* - AFOREs) and Investment Funds Specialized in Retirement Savings (*Sociedades de Inversión Especializadas de Fondos para el Retiro* - SIEFOREs).

1995: Social Security Law; establishes the system of mandatory private pension schemes, regulates coverage, contributions and the relationship between the old publicly managed social security scheme and the system of mandatory private pension schemes.

Types of Schemes

All covered persons must become a member of the mandatory private pension scheme provided by Retirement Fund Administrators (AFOREs), which establishes and manages Investment Funds Specialized in Retirement Savings (SIEFOREs). The scheme is open to all eligible persons who apply for membership.

The scheme is defined contribution and contributions are accumulated in individual accounts.

All eligible persons may choose freely and without any intervention of the employer an AFORE for the management of their individual accounts. All individual accounts are composed of the following three sub-accounts:

- Retirement, severance at advanced age and old-age insurance contributions' sub-account;
- Housing contributions' sub-account;
- Voluntary contributions' sub-account.

The assets in the housing sub-account are, while being reflected in the AFORE account balance of the member, managed by the National Housing Fund Institute (INFONAVIT).

Members and employers can make two types of voluntary additional contributions without limit. The first type is voluntary contributions made by the employee, and they can be withdrawn, depending of the AFORE, three to six months after being made. The second type is known as complementary retirement contributions, which cannot be withdrawn until the insured is eligible for a pension. At retirement, they can be withdrawn either as a complement to the pension or as a lump-sum payment.

Institutional Framework

Mandatory personal scheme: Retirement Fund Administrators (AFOREs) must be corporations with independent capitalization and have the sole business purpose of establishing and managing Investment Funds Specialized in Retirement Savings (SIEFOREs) and the individual accounts of its members.

AFOREs may be controlled by foreign financial institutions (but not by individuals or manufacturers and other businesses) from countries that signed international treaties with Mexico for the

liberalization of financial services. Foreign-owned AFOREs receive equal treatment with Mexican-owned AFOREs and are not subject to the market share limitations that Mexico enforces against foreign-owned banks and brokers/dealers.

Each AFORE must maintain a minimum paid-in capital of MXN 25 million and SIEFOREs must maintain a minimum paid-in capital of MXN 4 million for SIEFORE Básica 1 and MXN 100,000 for SIEFORE Básica 2 (see section on Asset Management) or additional SIEFORES. A special reserve equal to the greater of UDI 8 million (*Investment Units*, approximately equal to USD 2.62 million) or 1.65 times the maximum VAR (Value at Risk) allowed to each of the SIEFOREs Básicas. The special reserve for additional SIEFORES is 1% of assets under management up to a maximum of MXN 900,000. The paid-in capital and the special reserve must be invested in the SIEFOREs managed by the AFORE.

The establishment of an AFORE requires the authorization of the National Commission for the Retirement Savings System (CONSAR) which may be granted or refused at the discretion of the latter. In assessing whether an authorization is to be granted, CONSAR examines:

- The business plan of the AFORE;
- Its automated systems;
- Its internal control and management capacities.

Each AFORE must be managed by a board of directors consisting of at least five members and must have a compliance officer responsible for ensuring compliance with legal requirements and internal rules through establishing a process of self-regulation. AFOREs must provide sufficient means to compliance officers to enable them to perform their functions adequately. The compliance officer must attend all meetings of the board of directors.

Compliance officers must:

- Have at least 5 years of adequate professional experience;
- Have the reputation of being an ethical person;
- Have demonstrated their technical and administrative capacities.

Compliance officers must be approved by CONSAR and this approval may be withdrawn if they no longer comply with the established requirements. There are, however, no fit and proper requirements concerning the members of the board of directors of an AFORE.

AFOREs must have automated systems sufficient for the administration of individual accounts and fulfil technical requirements regarding support, disk space and processing capacities. AFOREs are also required to have a digital electronic channel of telecommunications and systems to keep statistical information concerning the administration of individual accounts.

AFOREs provide benefits if the programmed withdrawals option is chosen (see section Retirement benefits, Benefit structure / formula). Annuities are provided by insurance companies.

The Mexican Social Security Institute (*Instituto Mexicano del Seguro Social* - IMSS) collects contributions and transfers them to the AFORE chosen by the member.

Disability and survivor benefits are covered under a separate insurance policy. This insurance policy covers the risk that the deceased or disabled member's capital accumulated in the retirement, severance at advanced age and old-age insurance contributions' sub-accounts is not sufficient to purchase disability or survivor benefits of the legally prescribed amount.

Coverage

Covered population

Mandatory personal scheme: Membership is mandatory for private-sector employees who entered the labour force after the introduction of the system of mandatory private pension schemes in July 1997.

Private-sector employees who entered the labour force prior to that date had to choose between staying a member of the old publicly managed social security scheme and joining the new system.

Private-sector employees, who entered the labour force prior to that date may choose at retirement

whether they retire with the old or the new scheme, whichever will provide the highest benefit (see section Preservation, portability, transferability).

Membership is extended on a voluntary basis to the self-employed, federal state employees and the employees of certain public entities, states and municipalities.

Enforcement of affiliation

Mandatory personal scheme: Retirement Fund Administrators (AFOREs) must accept all applications for membership by eligible persons.

Employees who do not choose an AFORE are affiliated to one by the National Commission for the Retirement Savings System (CONSAR) to the AFORE with the lowest fees of all AFOREs.

Financing / Investment

Sources of funds

Mandatory personal scheme: The total employee, employer and government contribution to the retirement, severance in advanced age and old-age insurance contributions' sub-accounts is 6.5% of salary (of which 17.3% is paid by the employee, 79.2% by the employer and 3.5% by the government).

The government supplements this contribution with a flat-rate amount (the so-called social quota).

Member contributions

Mandatory personal scheme: 1.125% of salary (17.3% of the total mandatory contribution to the sub-account for retirement, severance at advanced age and old-age insurance), plus 0.625% of salary for disability and survivor insurance and an additional amount for administrative fees.

The minimum earnings for contribution purposes are equal to the regional minimum wage.

The maximum earnings for contribution purposes are equal to 25 times the minimum monthly wage in Mexico City which is equal to MXN 1,631.12 a month.

Self-employed persons contribute 6.275% of declared earnings for old-age benefits, plus 2.375% for disability and survivor benefits.

Declared earnings for contribution purposes are equal to the minimum monthly wage in Mexico City which is equal to MXN 1,631.12 a month.

Employer contributions

Mandatory personal scheme: 5.15% of salary (79.2% of the total mandatory contribution to the sub-account for retirement, severance in advanced age and old-age insurance), plus 1.75% of salary for disability and survivor insurance.

The minimum earnings for contribution purposes are equal to the regional minimum wage.

The maximum earnings for contribution purposes are equal to 25 times the minimum monthly wage in Mexico City equal to MXN 1,631.12 a month.

Contributions to the housing contributions' sub-account of 5% of salary are entirely paid by the employer. If the member is paying a loan from the National Housing Fund Institute (INFONAVIT), the contribution is not credited to the housing sub-account but is used to repay the loan.

Other sources of funds

Mandatory personal scheme: The government pays 0.225% of salary to the sub-account for retirement, severance at advanced age and old-age insurance.

The government also pays into the individual account a flat-rate amount (the so-called social quota) of MXN 2.74 for each day of work. The social quota is regularly adjusted to variations in the Consumer Price Index.

The government contributes 0.125% of the member's salary for disability and survivor insurance.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

Retirement Fund Administrators (AFOREs) must finance disability and survivor benefits through

insurance contracts.

Asset Management

Mandatory personal scheme: The asset management is done through special investment vehicles called Investment Funds Specialized in Retirement Savings (SIEFOREs). Each Retirement Fund Administrator (AFORE) must establish and manage two SIEFOREs, SIEFORE Basica 1 (SB1) and SIEFORE Basica 2 (SB2), which offer different investment portfolios reflecting different levels of risk. Members up to age 56 may choose freely between SB1 and SB2, while members aged 56 or more must invest their resources in the SB1. AFOREs may also establish SIEFOREs for voluntary contributions.

SIEFOREs do not have staff of their own but must be managed by a board of directors which includes the members of the board of directors of its managing AFORE.

Assets under management in SB1 must be invested in fixed income securities, of which up to 20% may be invested in foreign securities. In addition to assets allowed in SB1, up to 15% of assets in SB2 may be invested in principal protected equity securities.

SB1 and SB2 must maintain the following limits regarding fixed income securities:

- Up to 100% of assets under management in AAA rated securities;
- Up to 30% of assets under management in AA rated securities;
- Up to 5% of assets under management in A rated securities.

SB1 and SB2 must also have the following issuer limitations:

- Up to 5% of assets under management in an AAA rated issuer;
- Up to 3% of assets under management in an AA rated issuer;
- Up to 1% of assets under management in an A rated issuer.

SB1 and SB2 must comply with a maximum VAR (Value at Risk) of 0.65% of assets under management.

Each AFORE must have one custodian to take care of its international securities. Eligible custodians must be A-rated on the global scale. Custody costs will be paid by the AFOREs.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Employees are free to choose a Retirement Fund Administrator (AFORE) for membership without intervention of their employers.

Members may change their AFORE once a year provided that they have been members of their current AFORE for at least one year. Restrictions do not apply if:

- An AFORE changes its investment strategy;
- Employees wish to change to a cheaper AFORE;
- An AFORE increases its administrative fees;
- An AFORE merges with another AFORE.

AFOREs must not charge members any fee for the transfer of capital.

The Mexican government has recognized the vested rights of "transitional workers", i.e. private-sector employees who contributed to the former publicly managed old-age pension system and did not retire before July 1997. At retirement, transitional workers can choose between the higher of a benefit equal to that payable if they had stayed in the previous defined benefit system or the benefit from the mandatory private pension scheme.

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: The retirement age is age 65 for both men and women.

Members must have 1,250 weeks of contribution at retirement age in order to receive a regular benefit (programmed withdrawal or annuity - see section Benefit structure / formula). If members do not fulfil this requirement, they may continue contributing beyond age 65 in order to reach a contribution record

of 1,250 weeks.

Members may retire at any age if their accumulated balance in their individual accounts allows them to buy an annuity that is at least 30% higher than the minimum guaranteed pension.

Employees may retire at age 60 on the grounds of severance at advanced age if they have a contribution record of 1,250 weeks or more.

In both cases a life insurance premium for dependents must be paid.

The state guarantees a minimum pension benefit for retirees who have contributed for at least 1,250 weeks and whose accumulated capital is not sufficient to purchase an annuity of at least equal to the minimum pension.

Withdrawal of funds before retirement

Mandatory personal scheme: Partial withdrawals of capital from the individual account are possible in the cases of unemployment and marriage.

Unemployed members may withdraw the lower of the equivalent of 75 days of their salary or 10% of their account balance, starting on the 46th calendar day of unemployment. Members may make this type of withdrawal only once every 5 years.

Employees who marry can withdraw the equivalent of 30 times the daily minimum salary for Mexico City (equal to MXN 1,631.12 a month), provided that they have been, at the date of marriage, contributing for a minimum of 150 weeks to the retirement, severance at advanced age and old-age insurance sub-account. The member can only make this type of withdrawal once.

Benefit structure / formula

Mandatory personal scheme: Defined contribution.

Employees with 1,250 or more weeks of contribution and whose accumulated capital is sufficient to purchase an annuity of at least the minimum pension may at retirement choose between programmed withdrawals and a life annuity from an insurance company.

Under the programmed withdrawals option, the AFORE continues to manage the individual account and pays a monthly pension that is charged against the total balance in the account until it is empty. To calculate the amount of the pension, the AFORE considers the employee's life expectancy and the expected rate of return.

If the annuity option is chosen, employees sign a contract with an insurance company of their choice. Employees may opt for a straight annuity or a joint survivor life annuity.

At retirement age, those employees with less than 1,250 weeks of contributions may either receive their accumulated capital as a lump sum, or continue contributing in order to reach the required 1,250 weeks.

The state guaranteed minimum pension benefit equals the minimum salary in July 1997 indexed to the Consumer Price Index (MXN 1,631.12 a month as of July 2005). The minimum pension is paid as gradual withdrawals from the individual account. When the individual account is exhausted the government assumes responsibility for the payment of the minimum pension for life.

If members do not have a loan outstanding from the Housing Institute, the capital in the housing sub-account is at retirement either added to the retirement, severance and old-age insurance sub-account, if members qualify for a regular benefit, or paid to the members as a lump sum, if members do not qualify for a regular benefit.

The Mexican government has recognized the vested rights of "transitional workers", i.e. private-sector employees who contributed to the former publicly managed old-age pension system and did not retire before July 1997. At retirement, transitional workers can choose between the higher of a benefit equal to that payable if they had stayed in the previous defined benefit system or the benefit from the mandatory private pension scheme.

Benefit adjustment

Mandatory personal scheme: Life annuities must be indexed to the Consumer Price Index (CPI), but gradual withdrawals are not indexed since they

are recalculated each year. The minimum pension guarantee is indexed to the CPI.

Survivors

Benefit qualifying conditions

Mandatory personal scheme: The member was a disability pensioner or had at least 150 weeks of contributions at the time of death. Survivor benefit resulting from the death of a member through a work accident or occupational disease is covered by a publicly managed social security scheme.

Eligible survivors are a widow(er) or cohabiting partner with children; a widow(er) without children who was married to the deceased for at least 6 months, subject to the deceased being younger than age 55 at the date of marriage; if the deceased was age 55 or older at the date of marriage or if the deceased was a pensioner, the marriage must have lasted at least 12 months. Other survivors are a cohabiting partner without children who lived with the deceased for at least 5 years; children up to age 16 (age 25 if a student); and parents in the absence of other eligible survivors. All eligible survivors must have been dependent on the deceased.

Benefit structure

Mandatory personal scheme: Survivor pensions amount to 90% of the disability pension paid or payable (see section Disability).

Each orphan younger than age 16 (age 25 if a student) receives a pension equal to 20% of the disability pension paid or payable or equal to 30% for a full orphan. When eligibility ceases, orphans receive a final benefit equal to 3 months of the deceased's pension.

In the absence of the above survivors, 20% of the disability pension paid or payable is paid for each eligible survivor.

A deceased member's capital accumulated in the retirement, severance at advanced age and old-age insurance contributions' sub-account must be used to purchase the survivor benefits. The risk that the capital in the sub-account is not sufficient to pay the prescribed survivor benefits is covered by a separate insurance policy.

If the capital in a deceased member's individual account exceeds the amount necessary to purchase the prescribed survivor benefits, the survivors may withdraw the excess as a lump sum.

A lump sum equal to two times the insured's monthly salary or pension is paid in order to compensate for the funeral cost.

Benefit adjustment

Mandatory personal scheme: Survivor pensions are indexed to the Consumer Price Index.

Disability

Benefit qualifying conditions

Mandatory personal scheme: The disabled member has at least 150 weeks of contributions with a loss of at least 75% in normal earning capacity or at least 250 weeks of contributions with a loss of between 50% and 75% of earnings capacity. Disability caused by a work accident or occupational disease is covered by a publicly managed social security scheme.

The state guarantees a minimum disability pension benefit for retirees whose pension (based on the value of the accumulated capital plus accrued interest) is less than the minimum monthly pension of MXN 1,631.12.

Benefit structure

Mandatory personal scheme: The disability pension amounts to 35% of the member's average salary in the last 500 weeks of contribution plus family allowances form 10% to 15% of the disability pension.

A disabled member's capital accumulated in the retirement, severance at advanced age and old-age insurance contributions' sub-account must be used to purchase the disability benefit. The risk that the capital in the sub-account is not sufficient to pay the prescribed disability benefit is covered by a separate insurance policy.

If the capital in a disabled member's individual account exceeds the amount necessary to pay the

disability benefit, the member may withdraw the excess as a lump sum.

Benefit adjustment

Mandatory personal scheme: The disability pension is indexed to the Consumer Price Index.

Protection of Rights

Protection of Assets

Mandatory personal scheme: The assets in the individual accounts are completely separate from the assets of the Retirement Fund Administrators (AFOREs), since the Investment Funds Specialized in Retirement Savings (SIEFOREs) are independent legal entities.

Assets of AFOREs and SIEFOREs must be kept by a custodian.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: Retirement Fund Administrators (AFOREs) must maintain a special reserve equal to the greater of UDI 8 million (*Investment Units*, approximately equal to USD 2.62 million) or 1.65 times the maximum VAR (Value at Risk) allowed to each of the SIEFOREs Básicas (see section Asset Management). The special reserve for additional SIEFORES is 1% of assets under management up to a maximum of MXN 900,000. The paid-in capital and the special reserve must be invested in the SIEFOREs managed by the AFORE.

AFOREs must provide the regulatory and supervisory authority, the National Commission for the Retirement Savings System (CONSAR), with different kinds of information on a daily basis and compliance is sanctioned one day after a fault is committed.

The compliance officer (see section on Institutional framework) must report monthly to the CONSAR on the evaluation of the process of self-regulation of the AFORE.

AFOREs must have their financial statements audited once a year by an independent auditor. Audited financial statements must be disclosed to the CONSAR and be published in two national newspapers.

Whistleblowing

Mandatory personal scheme: Compliance officers must inform the National Commission for the Retirement Savings System (CONSAR) of any irregularities that they detect.

Standards for service providers

Mandatory personal scheme: Each Retirement Fund Administrator (AFORE) must have one custodian to take care of its international securities. Eligible custodians must be A-rated on the global scale and independent from the AFOREs. Custody costs are paid by the AFOREs.

There are no legal requirements for auditors except that they must be independent from the AFORE of which financial statement they audit.

Fees

Mandatory personal scheme: There are no statutory upper limits on fees charged by Reirement Fund Administrators (AFOREs) and other service providers. AFOREs charge an average 0.625% of earnings for disability and survivor benefits and an additional amount for administrative fees.

AFOREs must obtain approval from the governing board of the National Commission for Retirement Savings System (CONSAR) for the fees that they charge to their members. CONSAR must take current market conditions into account when determining whether certain fees are to be approved or not.

Winding up / Merger and acquisition

Mandatory personal scheme: Winding up procedures of a Retirement Fund Administrator (AFORE) are initiated based on a decision by the AFORE itself, or based on an order by the National Commission for the Retirement Savings System (CONSAR) if it withdraws the AFORE's authorization. When an AFORE is being wound up, it must liquidate the assets of its SIEFOREs within

180 days and transfer them to the concentrated account managed by the Bank of Mexico. Within this period of 180 days, members of the AFORE that is being wound up must choose a new AFORE to which the Bank of Mexico must transfer their capital without delay.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: Insolvency insurance is not compulsory and no compensation fund exists.

Each Retirement Fund Administrator (AFORE) must maintain a special reserve that must be used to compensate members for the loss of assets due to a violation of the legally prescribed investment restrictions.

A minimum pension benefit is guaranteed by the state (see section Benefit structure / formula).

Disclosure of information / Individual action

Mandatory personal scheme: Investment Funds Specialized in Retirement Savings (SIEFOREs) must distribute prospectuses containing information on their investment strategy. These documents must, before their distribution, be reviewed and approved by the National Commission for the Retirement Savings System (CONSAR).

AFOREs must publish their financial statements quarterly and their audited financial statements annually in two national newspapers.

Each AFORE is required to establish a specialized unit to respond to questions and claims from members and employers. Claims not settled by this unit are presented in a system of conciliation that is run by the government through the National Commission for the Protection and Defence of Financial Service Users (*Comisión Nacional para la Defensa de los Usuarios de Servicios Financieros* - CONDUSEF). CONDUSEF was created in 1999 with the purpose of promoting, advising, protecting and defending the rights and interests of individuals that receive services from institutions belonging to the Mexican financial system. To this end, CONDUSEF responds to and resolves any inquiries or claims that are presented to it, conducts the necessary conciliatory procedures and offers guidance and legal advice to members in any court action against AFOREs and/or SIEFOREs.

Other measures

Mandatory personal scheme: The degree of market share allowed to each AFORE is limited to 20% of the potential market. The percentage is determined by the number of retirement accounts managed by an AFORE, not by their size.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Taxed.

Taxation of employer contributions

Mandatory personal scheme: Tax-deductible.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Benefits are tax-exempt up to the limit of nine times the annual minimum wage. Benefits above this limit are taxed as income.

The minimum monthly wage in Mexico City is equal to MXN 1,631.12 a month.

Regulatory and Supervisory Authorities

National Commission for the Retirement Savings System (CONSAR): Regulates and supervises Retirement Fund Administrators (AFOREs) and Investment Funds Specialized in Retirement Savings (SIEFOREs). The Commission is part of the Ministry of Finance.

In order to enforce AFOREs compliance with legal

requirements, CONSAR may:

- Carry out on-site inspections (inspectors must be provided with all records, books and other information they wish to obtain);
- Require AFOREs to provide all information necessary for effective supervision;
- Issue orders to AFOREs to cease violations of legal requirements;
- Withdraw the authorization of an AFORE (which implies that it must be wound up).

If the CONSAR finds irregularities in the management of an AFORE that may endanger its financial safety and the interests of members, it may declare a case of general intervention and appoint a general administrator to take over the administration.

A Consultative and Prevention Committee (*Comité Consultivo y de Vigilancia*) including representatives of employees, employers and the government has been established to involve different interests in the regulation and supervision of mandatory private pension schemes and to improve the consultation between these groups. The Committee consists of the following 19 members:

- Six employee representatives;
- Six employer representatives;
- The President of CONSAR;
- One representative of the Finance Ministry;
- One representative of the Labour and Social Security Ministry;
- One representative of the Mexican Social Security Institute;
- One representative of the Mexican Central Bank;
- One representative of the Security and Social Service Institute of State Employees;
- One representative of the National Housing Fund Institute.

The presidency of the Committee is alternated by the employee or employer representative.

Comisión Nacional del Sistema de Ahorro para el Retiro
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Internet: www.consar.gob.mx

Peru

Exchange rate: USD 1.00 equals 3.25 nuevos soles (PEN).

Regulatory Framework

2003: Law No. 27,988; implements multifunds in the private pension scheme.

1998: Supreme Decree No. 004-98-EF; establishes the regulations governing the system of private pension schemes, defines rules for the internal organization and operation of pension fund administrators and specifies minimum disability and survivor benefits.

1997: Supreme Decree No. 054-97-EF; provides for the licensing, regulation and supervision of pension fund administrators, requires private pension schemes to provide old-age, disability, survivor and funeral benefits and defines asset management rules.

1992: Decree-Law No. 25,897; establishes the private pension scheme.

Specific aspects of regulation and normative procedures are part of a Compendium of Norms that includes a total of 12 thematic titles.

Types of Schemes

All covered persons must become members of the private pension scheme unless they opt out of the private pension system (see section Coverage). Covered persons who do not opt out must join an open pension fund through signing an affiliation contract with a private pension fund administrator (*Administradora Privada de Fondos de Pensiones* - AFP) managing the fund. The scheme is open to all eligible persons who apply for membership.

The scheme is defined contribution and contributions are accumulated in individual accounts.

All eligible persons may choose freely and without any intervention of the employer an AFP to manage their individual accounts.

Members may make additional voluntary contributions and employers, who are not required by law to contribute, may make voluntary contributions on behalf of their employees.

Members may make additional voluntary contributions and employers, who are not required by law to contribute, may make voluntary contributions on behalf of their employees.

Institutional Framework

Private pension scheme: Pension fund administrators (AFPs) must be established as limited liability companies with the single business aim of establishing and managing three open pension funds. They must operate in accordance with the Good Corporate Governance principles established by the Peruvian State.

The founders of an AFP must apply to the Superintendence of Banks, Insurance and AFP for a license to establish the AFP. The following documents and information must be attached to the application for this license:

- Certification of bank deposit of the required minimum capital of approximately USD 590,000 (amount is adjusted each year in line with inflation);
- An economic and financial feasibility study;
- Information on the founders;
- Information on the location of the planned headquarters of the AFP and its geographical area of activity;
- Name of the AFP representative in the Superintendence of Banks, Insurance and AFP.

Founders of an AFP must be approved by the Superintendence on the basis of their moral integrity and professional expertise. They must not in particular:

- Have been convicted for crimes involving fraud;
- Have been disqualified to carry out a trade-related occupation;

- Be employees of a public institution;
- Be managers or directors of other AFPs.

The following institutions cannot establish an AFP:

- Financial or insurance enterprises doing business in Peru;
- The health social insurance institution;
- Custodians of AFP assets;
- Investment rating companies;
- Other AFPs;
- Credit and saving institutions.

Once established, an AFP must apply to the Superintendence for an operating license that constitutes the permission to establish and administer the pension funds.

AFPs must be governed by a board of directors the members of which must not:

- Be prohibited by any law from being directors of a financial institution;
- Be counsellors or employees of the Superintendence;
- Be employees of the AFP, except the General Manager;
- Be directors or employees of another AFP or an investment rating company;
- Have been convicted for crimes involving fraud;
- Have been removed by the Superintendence from the board of directors of an AFP in the past.

APFs manage the benefit administration if the programmed or temporary withdrawals options are chosen (see section Retirement benefits, Benefit structure / formula). If an annuity option is chosen a life insurance company pays the benefits.

AFPs must contract insurance policies with an insurance company registered with the Superintendence to cover disability and survivor benefits. The insurance company must be selected yearly through a competitive procedure approved by the Superintendence.

Coverage

Covered population

Private pension scheme: Private- and public-sector employees who are employed for the first time must affiliate to a pension fund administrator (AFP) unless they opt out of the private pension scheme. The decision to opt out must be made in writing and in this case covered persons are insured under the publicly managed social security scheme.

Members of the publicly managed social security scheme may switch to the private pension scheme. Members of private pension scheme are not allowed to switch or change back to the publicly managed scheme except under very restricted legally specified circumstances (e.g. the forgery of signatures or if the member is not eligible for disability benefits from the insurance company selected by the AFP because the onset of disability was before the date of switching to the private system).

Employees who have accrued rights under the publicly managed social security scheme and switch to the private pension scheme receive recognition bonds in return for their accrued rights. These recognition bonds are credited to the individual account in the open pension fund chosen by the respective employee, but only become effective once the member retires (i.e. the AFP does not manage the recognition bond and it only becomes effective as and when the member begins to receive benefits).

Membership of an open pension fund and affiliation to an AFP is voluntary for the self-employed.

Enforcement of affiliation

Private pension scheme: AFPs must accept all applications for membership from covered persons. If an AFP refuses an application the Superintendence may cancel its operating license and the accumulated fund is managed according to the Superintendence's decisions.

AFPs must conclude affiliation agreements with covered persons through sales agents (known as promoters) that must be natural persons and registered

with the Superintendence. They may only work for one AFP at a time and must:

- Not have been dismissed by any AFP for which they worked previously;
- Have ceased working for another AFP 3 months before starting work for an AFP;
- Not have been convicted for crimes involving fraud;
- Not be disabled;
- Not have been public officers charged with the supervision of AFPs in the year prior to becoming a sales agent for an AFP;
- Not have any registered outstanding debts during 5 years prior to starting work for an AFP.

Financing / Investment

Sources of funds

Member contributions

Private pension scheme: Employees contribute 8% of salary (allocated to the individual account) plus a percentage of salary determined by each AFP for disability and survivor insurance and funeral benefits (0.92% average in July 2005). The contribution rate will increase to the original rate of 10% from January 2006.

There are no maximum earnings for contribution purposes for old-age benefits. The maximum earnings for contribution purposes for disability and survivor benefits are PEN 6,486.33.

Self-employed persons contribute the same but are free to determine the income on which contributions are to be paid and the frequency of contribution payments. The minimum earnings limit for contributions purposes for the self-employed is the minimum national wage of PEN 460 in July 2005. There are no maximum earnings for contribution purposes for old-age benefits. The maximum earnings for contribution purposes for disability and survivor benefits are PEN 6,486.33.

Employer contributions

Private pension scheme: Employers are not required to contribute.

Other sources of funds

Private pension scheme: None.

Methods of Financing

Private pension scheme: Funded in individual accounts.

AFPs must finance disability and survivor benefits through insurance contracts with a registered insurance company.

Asset Management

Private pension scheme: Each AFP must establish two pension funds (Types 1, and 2) and may optionally establish one additional fund (Type 3).

Type 1 fund (Capital preservation fund): This fund must be established by AFPs in pursuance of a steady growth with low volatility. The election of this fund is mandatory for members aged 60 or more or for those who opted for old-age benefits paid under programmed or temporary withdrawals, unless they opt out of the fund. The decision to opt out must be made in writing and member must choose between Type 2 and Type 3 fund.

Type 2 fund (Mixed fund): This fund must be established by AFPs in pursuance of a moderate growth with medium volatility.

Type 3 fund (Growth fund): This fund must be established by AFPs in pursuance of a high growth with high volatility.

Self-employed persons may opt for any of the funds.

Maximum limits on investments for Type 1 funds are:

- 10% in variable-income securities;
- 100% in fixed-income securities;
- 10% in derivatives;
- 40% in cash and cash equivalents.

Maximum limits on investments for Type 2 funds are:

- 45% in variable-income securities;
- 75% in fixed-income securities;
- 10% in derivatives;
- 30% in cash and cash equivalents.

Maximum limits on investments for Type 3 funds are:

- 80% in variable-income securities;
- 70% in fixed-income securities;
- 20% in derivatives;
- 30% in cash and cash equivalents.

In addition to the above limits on the different types of funds, general investment limits are:

- 30% in instruments issued by the Peruvian State;
- 30% in instruments issued by the Peruvian Central Bank;
- 40% in instruments issued by the Peruvian State plus issued by the Peruvian Central Bank;
- 10% in instruments issued abroad.

Investments in instruments issued abroad also have maximum limits depending on issuers and hedging instruments.

AFPs must pay a minimum real rate of return approved by the Superintendence. If AFPs fail to reach the minimum real rate of return they must use their guaranties established by the Superintendence. If these are still not enough AFPs must use their own capital.

Benefit provisions

Preservation, portability, transferability

Private pension scheme: Members may change pension fund administrators (AFPs) provided that they have been members of the AFP for at least 3 months. The AFP administering the fund must transfer the accumulated capital to the new AFP.

Members may freely opt for one of the three funds within an AFP provided that they are younger than age 60. Members aged 60 or more or retirees who opted for old-age benefits paid under programmed or temporary withdrawals are automatically assigned to the Type 1 fund unless they opt out of the fund. The decision to opt out must be made in writing and members must choose between Type 2 and Type 3 funds.

AFPs must not charge any fee for the transfer of a member's capital to another fund.

Employees who have accrued rights under the publicly managed social security scheme and switch to the private pension scheme receive recognition bonds in return for their accrued rights. These recognition bonds are credited to the individual account in the open pension fund chosen by the respective employee, but only become effective once the member retires (i.e. the AFP does not manage the recognition bond and it only becomes effective as and when the member begins to receive benefits).

Members who emigrate from Peru to live permanently in a foreign country may transfer their accumulated capital to a private pension scheme in that country. Persons permanently returning to Peru after having worked in a foreign country may, subject to certain conditions, transfer their accumulated capital to a private pension scheme in Peru.

Retirement Benefits

Benefit qualifying conditions

Private pension scheme: Benefits are payable at age 65, but members may retire at any younger age provided that their benefit equals at least 50% of their indexed average monthly salary in the last 120 months.

The state guarantees a minimum pension for retirees aged 65 or more whose benefit does not exceed the minimum pension and who:

- Were born before 1 January 1946; and
- Have contributed for at least 20 years to the publicly managed social security scheme and/or the system of private pension schemes.

Withdrawal of funds before retirement

Private pension scheme: Not permitted.

Benefit structure / formula

Private pension scheme: Defined contribution.

Retirees may choose between four benefit options:

- Programmed withdrawals from their individual accounts according to tables established by the Superintendence, in which case the pension fund administrator (AFP) continues to manage their

accumulated capital and administers the payment of benefits;
- Individual life annuity purchased by means of their accumulated capital from an AFP of their choice (this option has not yet been implemented as AFPs are not yet allowed to provide annuities);
- Individual or joint-survivor life annuity purchased by means of their accumulated capital from a life insurance company of their choice;
- Temporary withdrawals with deferred annuity, in which case only a part of their accumulated capital is transferred to the insurance company of their choice in order to purchase a life annuity payable from an agreed date, and the remaining capital is used to provide temporary withdrawals until this date. The deferred annuity must not be lower than 50% of the first temporary withdrawal and not exceed 100% of this withdrawal.

Currently, only life insurance companies may provide annuities. Different annuity options may be offered to retirees. The annuity selection process and the annuity rules are supervised by the Superintendence.

Different mortality tables are used for men and women.

The minimum pension guaranteed by the state is equal to PEN 415 a month.

The capital accumulated by means of additional voluntary contributions can be withdrawn at retirement as a lump sum or be used to increase the benefits provided under the options outlined above.

Benefit adjustment

Private pension scheme: Programmed and temporary withdrawals are not adjusted. Annuities must be adjusted every 3 months in line with the Consumer Price Index of Metropolitan Lima.

Survivors

Benefit qualifying conditions

Private pension scheme: The benefit is paid if the deceased was an active member or a retiree.

Eligible survivors are the spouse or cohabitant, orphans under age 18 (no age limit if disabled) and parents who are unable to work due to disability or who are older than age 60 and dependent.

Benefit structure

Private pension scheme: Survivor pensions are a percentage of the average monthly salary in the 48 months before death if the deceased was an active member or a percentage of the last benefit if the deceased was a retiree:

- 42% for a spouse or cohabitant without children;
- 35% for a spouse or cohabitant with children;
- 14% for each orphan;
- 14% for a mother or father.

The sum of all survivor pensions must not exceed 100% of the monthly salary of the deceased member.

Survivor benefits are financed by means of a separate insurance policy (see section Institutional framework). The capital required to finance the prescribed survivor benefits is calculated and the insurance company provides the difference between this required capital and the capital accumulated in the deceased member's individual account.

Lump-sum funeral grants of PEN 2,941.31 are paid directly to the institution responsible for the funeral arrangements.

Disability

Benefit qualifying conditions

Private pension scheme: Disability benefits are payable to members with a medically certified reduction in earnings capacity of 50% or more.

Partial disability is defined as a reduction in earnings capacity of between 50% and 66.6% and total disability as a reduction in earnings capacity exceeding 66.6%.

Benefit structure

Private pension scheme: The disability pension is equal to 70% in the case of total disability, and 50% in the case of partial disability, of the disabled member's average monthly salary in the 48 months preceding the onset of disability.

Disability benefits are financed by means of a separate insurance policy (see section Institutional framework). The capital required to finance the prescribed disability benefits is calculated and the insurance company provides the difference between this required capital and the capital accumulated in the disabled member's individual account.

Protection of Rights

Protection of Assets

Private pension scheme: Pension fund administrators (AFPs) must keep pension fund assets separate from their own assets. AFPs have no property rights over the funds they manage.

Fund assets must be held by a custodian.

Financial and Technical Requirements / Reporting

Private pension scheme: Each pension fund administrator (AFP) must maintain a pension fund reserve that must be used to compensate for investment returns below the required minimum (see section Asset management). If the assets of the reserve are insufficient to cover the shortfall, the AFP must use its own assets to compensate for any remaining deficit.

The minimum capital of approximately USD 590,000 (requirement adjusted each year in line with inflation) must be paid-up at all times.

Each AFP must submit daily investment reports and information on the value of the pension funds and pension fund reserve assets to the Superintendence of Banks, Insurance and AFPs. It must also submit certain specified information on a regular basis (e.g. concerning the investment portfolio, number of members, benefits paid, rate of return, sales agents and the transfer of accumulated capital) and a comprehensive annual report.

The annual report must be submitted within 15 days of its approval by the AFP's general assembly of shareholders and contain information on the:

- Structure of the current organization of the AFP at the end of the reporting year;
- Structure and level of commissions charged by the AFP during the reporting year;
- Age structure of contributing members;
- Number of active contributing members, divided by type, sex and average income;
- Number and amount of benefits paid;
- Pension fund's portfolio composition for each month of the reporting year;
- Value of the pension funds assets at the end of each month of the reporting year.

Each AFP must submit information concerning:

- Meetings of their board of directors;
- Election of directors;
- The shareholders and transfers of shares that involve more than 3% of the total share capital of the AFP.

Each AFP must prepare financial statements and have them audited by an external auditor. The financial statements and the auditor's report must be submitted to the Superintendence.

In addition, AFPs must inform the Superintendence of changes to their internal statutes and in cases where employers do not transmit due contributions.

Whistleblowing

Private pension scheme: Auditors must report any detected irregularity to the Superintendence.

AFPs must promote the observance of the Good Corporate Governance principles established by the Peruvian State by issuers of assets invested in pension funds.

Standards for service providers

Private pension scheme: Custodians must be authorized under the General Law on the Financial System, Securities and Banking Supervision or under the Law on the Securities Market. The contract between an AFP and a custodian must be approved by the Superintendence.

Auditors must be independent of the AFP and comply with regulations set out by the Superintendence

and the Securities and Exchange Commission (*Comisión Nacional Supervisora de Empresas y Valores* - CONASEV).

Fees

Private pension scheme: Fees are determined by each AFP as a percentage of members' salaries. The average fee is 2.27 in July 2005.

AFPs may decrease fees according to length of membership but must charge the same fee to all members with the same length of membership.

Winding up / Merger and acquisition

Private pension scheme: An AFP may be wound up based on a decision of its shareholders or a decision of the Superintendence to cancel its operating license due to a serious violation of legal requirements.

If the Superintendence decides to cancel the operating license of an AFP, it must appoint three persons to administer and liquidate the AFP, and appoint another AFP to temporarily administer the open pension fund of the AFP that is being wound up.

Claims on an AFP that is wound up are satisfied in the following order:

- Debts to the pension fund that it manages, the pension fund reserve and other warranties fixed with the Superintendence;
- Salaries and social benefits of its employees;
- Taxes;
- Any other claims.

Mergers are subject to the authorization of the Superintendence which informs the Securities and Exchange Commission and the stock market. A new AFP resulting from a merger must obtain an operating license from the Superintendence.

Bankruptcy: Insolvency Insurance / Compensation Fund

Private pension scheme: The state guarantees a minimum old-age pension for certain retirees (see section Retirement benefits - subsections on Benefit qualifying conditions and benefit structure / formula).

Disclosure of information / Individual action

Private pension scheme: Members must be provided with an account statement every four months.

Members may complain to the Superintendence concerning actions of their AFP.

Other measures

Private pension scheme: None.

Tax Treatment

Taxation of member contributions

Private pension scheme: Taxed.

Taxation of employer contributions

Private pension scheme: Employers are not required to contribute. Voluntary contributions reduce the tax income base.

Taxation of investment income

Private pension scheme: Tax-exempt.

Taxation of benefits

Private pension scheme: Tax-exempt.

Regulatory and Supervisory Authorities

Superintendence of Banks, Insurance and AFP: Licenses and supervises AFPs, banks and insurance companies.

The Superintendence may impose the following sanctions if an AFP does not comply with legal requirements:

- Warnings;
- Monetary penalties;
- Temporary suspension of the operating license;
- Cancellation of the operating license.

The Superintendence is financed through contributions levied on supervised entities. The contributions payable by AFPs are calculated based on the amount of capital in the pension funds managed by the respective AFP.

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Uruguay

Exchange rate: USD 1.00 equals 24.15 new pesos (UYU).

Regulatory Framework

1995: Law 16,713; reforms the old-age pension system, creates a mixed system of old-age protection consisting of a publicly managed social insurance scheme and a mandatory private pension scheme, and regulates the establishment and operation of pension fund administrators.

1995: Decree No. 359; regulates the provision of survivor benefits.

Types of Schemes

All covered persons must become members of a mandatory private pension scheme through signing an affiliation agreement with a pension fund administrator (*Administradora de Fondos Previsionales* - AFAP).

Mandatory private pension schemes are defined contribution and assets are accumulated in individual accounts.

Covered persons may choose any AFAP for membership without influence of their employer.

Members may make voluntary additional contributions. Third persons including employers may make voluntary contributions known as agreed contributions on a regular or irregular basis.

Institutional Framework

Mandatory personal scheme: Pension fund administrators (AFAPs) must be established as public limited companies with the single business aim of establishing and managing one open pension fund.

AFAPs may be founded by:

- Certain public institutions (Social Insurance Bank, Eastern Uruguay Republic Bank, Mortgage Bank of Uruguay and State Insurance Bank) in which case they are referred to as public-sector AFAPs;
- Private institutions that act as financial intermediaries (i.e. banks) under the supervision of the Central Bank of Uruguay in which case they are referred to as private-sector AFAPs.

The establishment and operation of an AFAP is subject to the authorization of the Ministry of Economy based on an assessment by the Central Bank.

At their establishment AFAPs must comply with a minimum capital requirement of 60,000 adjustable units (*Unidad Reajustable* - UR). Thereafter the minimum capital must be the lesser of 2% of the value of pension fund assets managed or UR 150,000. URs are indexed to the increase in nominal wages and one UR equals UYU 257.22 as of July 2005.

The directors of an AFAP must obtain the authorization of the Central Bank before taking up their position. This authorization is based on an evaluation of the person's fitness and propriety (education, professional experience, absence of criminal record etc. are taken into account).

Each AFAP may establish and manage one open pension fund. No specific authorization is required to establish a pension fund once the AFAP itself is authorized.

Benefits are paid by insurance companies (see section Retirement benefits, Benefit structure / formula).

AFAPs must contract a group insurance policy with an authorized insurance company to cover disability and survivor benefits.

The Social Insurance Bank (*Banco de Previsión Social* - BPS) that administers the publicly managed social security scheme collects contributions to mandatory private pension schemes as part of the total social security contribution and transfers them to the respective AFAPs.

Coverage

Covered population

Mandatory personal scheme: Public- and private-sector employees including civil servants and self-employed persons who earn more than UYU 12,951 a year and join the labour force for the first time must become members of the mixed system of old-age protection consisting of a publicly managed social insurance scheme and a mandatory private pension scheme.

Employees and self-employed persons earning up to and including UYU 12,951 a year are only covered by the publicly managed social insurance scheme but may join a private pension scheme on a voluntary basis in which case they are entitled to transfer a part of their contributions payable to the publicly managed scheme to their pension fund administrator (AFAP) (see section Financing / investment, Employee contributions).

Enforcement of affiliation

Mandatory personal scheme: The Social Insurance Bank supervises and enforces coverage and must be notified by pension fund administrators (AFAPs) of all new members. If covered persons do not choose an AFAP, the Social Insurance Bank affiliates them to AFAPs according to the market share of different AFAPs.

AFAPs must not refuse any application for membership from covered persons.

The advertisements of AFAPs must be truthful and not misleading. AFAPs are responsible for the actions of their salespersons.

Financing / Investment

Sources of funds

Member contributions

Mandatory personal scheme: Members contribute 15% of the part of their annual earnings between UYU 12,951 and UYU 38,854.

Contributions depend on the insured's level of gross monthly earnings and whether or not the insured has exercised the option regarding the individual account:

Option not exercised

- If gross monthly earnings are UYU 12,951 or less: 15% of those earnings are paid to social insurance.
- If gross monthly earnings range from UYU 12,951 to UYU 38,854: 15% of UYU 12,951 is paid to social insurance and 15% of the amount of earnings above UYU 12,951 (up to and including UYU 38,854) is paid to the individual account.

Option exercised

- If gross monthly earnings are UYU 12,951 or less: 7.5% is paid to social insurance and 7.5% to the individual account.
- If gross monthly earnings range from UYU 12,951 to UYU 19,427: 7.5% of UYU 12,951 is paid to social insurance and 7.5% to the individual account, and 15% of the amount of earnings above UYU 12,951 (up to and including UYU 19,427) is paid to social insurance.
- If gross monthly earnings are above UYU 19,427: no option available.

The maximum amount of gross monthly earnings on which mandatory contributions are payable is UYU 38,854.

The insured's contribution includes an average 0.98% of earnings for disability and survivor insurance and an average 1.88% of earnings for administrative fees.

Earnings for contribution purposes are adjusted according to the civil servants' average wage index.

Employer contributions

Mandatory personal scheme: Employers are generally not required to contribute.

Employers must, however, make contributions known as bonus contributions on the part of the annual salary between UYU 12,951 and UYU 38,854 for employees working in certain legally specified occupations (e.g. teaching or occupations that have a negative health impact). The contribution rate depends on the nature of work, ranging from 6.9% for university professors to 27.5% for workers exposed to radiation.

Other sources of funds

Mandatory personal scheme: None.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

Pension fund administrators (AFAPs) must finance disability and survivor benefits through group insurance contracts with insurance companies.

Asset Management

Mandatory personal scheme: Pension fund administrators (AFAPs) must establish and manage one open pension fund. AFAPs manage pension fund assets in-house.

Legal restrictions on the investment of fund assets including quantitative restrictions for different asset classes, investment in single issuers and investment in foreign currency denominated assets apply. Investment in certain financial institutions is prohibited.

Investment in certain assets such as units of investment funds is subject to the approval of the Central Bank.

AFAPs must credit at least a minimum real rate of return to the individual accounts. The minimum real rate of return is the lesser of 2% and the average annual rate of return of all pension funds minus two percentage points. The calculation of the minimum real rate of return is done monthly based on the previous 12 months.

Pension fund assets must be held by a custodian.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Members may change their pension fund administrator (AFAP) provided that they have been members of their current AFAP for at least 6 months.

AFAPs must not charge any fee for the transfer of a member's capital to another AFAP.

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: Benefits are payable from age 60 with 35 years of service or age 65 without length of service requirement even if still in employment and contributing to the publicly managed social security scheme.

Withdrawal of funds before retirement

Mandatory personal scheme: Not permitted.

Benefit structure / formula

Mandatory personal scheme: Defined contribution.

Retirees must use their accumulated capital to purchase a life annuity from an insurance company of their choice. Insurance companies must obtain the authorization of the Central Bank to provide annuities.

Insurance companies may use different mortality tables for men and women.

Benefit adjustment

Mandatory personal scheme: Annuities must be adjusted in line with the average wage index in the same manner and periodicity as benefits under the publicly managed social security scheme.

Survivors

Benefit qualifying conditions

Mandatory personal scheme: Eligible survivors are:

- Widows;
- Widowers if they were economically dependent on the deceased members;
- Divorced spouses if they were economically dependent on, and prove that they received alimony from, the deceased members;
- Unmarried orphans up to age 21 (no age limit if disabled);
- Parents if they were economically dependent on the deceased members and are incapacitated for work.

Foster orphans and parents must prove that they have lived with the deceased member for at least 5 years.

Benefits paid to widowers and divorced spouses cease when they remarry. Benefits paid to incapacitated parents or disabled orphans cease if they recover before reaching age 45. If eligibility was subject to being economically dependent on the deceased member, the benefit ceases if the beneficiaries have a certain income.

Benefit structure

Mandatory personal scheme: Survivor benefits are financed through a group insurance policy with an insurance company. The deceased member's accumulated capital is transferred to the insurance company as part of the insurance premium and the insurance company provides the prescribed survivor benefits.

In the case of death before retirement, survivor benefits are a percentage of the old-age annuity to which the deceased member would have been entitled at the time of death. This annuity must not be lower than 45% of the deceased member's average indexed salary during the 10 years before death (i.e. the full disability benefit - see section Disability).

In the case of death after retirement, survivor benefits are a percentage of the old-age annuity that the deceased retiree received.

Widows, widowers or divorced spouses receive 70% of the total survivor benefits if they have dependent family members (60% if they do not have dependent family members) and if there are other eligible survivors. The remainder is split in equal parts between the other eligible survivors. If there are no other eligible survivors, the eligible widow, widower or divorced spouse receives the total benefit. If there are other eligible survivors but no eligible widow, widower or divorced spouse, the survivor benefit is distributed equally between all eligible survivors.

Disability

Benefit qualifying conditions

Mandatory personal scheme: A temporary disability benefit of up to 3 years may be paid in the case of incapacity for the member's current employment if the disability is related to the principal job activity. Members must have at least 2 years of service of which 6 months must be immediately prior to the onset of disability (only the latter condition is required for disabled members under age 25).

A permanent disability benefit is payable where the member is incapacitated for any kind of employment.

The Social Insurance Bank is responsible for the assessment and determination of the degree of disability.

Benefit structure

Mandatory personal scheme: Disability benefits are financed through a group insurance policy with an insurance company. In the case of permanent disability, the disabled member's accumulated capital is transferred to the insurance company as part of the insurance premium and the insurance company provides the prescribed disability pension.

The temporary and permanent disability pensions equal 45% of the average indexed salary of the disabled member during the 10 years before the onset of disability. Permanent disability pensions are payable for life. Temporary disability benefits are payable for up to 3 years.

Protection of Rights

Protection of Assets

Mandatory personal scheme: Pension fund assets are the property of the members and must be kept separately from the assets of the pension fund administrator (AFAP).

Pension fund assets must be held by a custodian.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: Each pension fund administrator (AFAP) must establish a return fluctuation reserve financed with any positive returns on the investment of pension fund assets that exceed

the average rate of return of all pension funds by the higher of 2 percentage points or 50% of this average. The assets of the return fluctuation reserve must not exceed 5% of the value of pension fund assets for more than one year (any excess must then be credited to the members' individual accounts). The reserve must be used to compensate for investment returns below the minimum rate (see section Asset management).

In addition, each AFAP must, by means of its own capital, establish a special reserve of between 0.5% and 2% of the value of pension fund assets that must be used to compensate for investment returns below the minimum rate that cannot be covered by the return fluctuation reserve.

Each AFAP must prepare audited annual accounts separately for itself and the pension fund it manages in line with standards defined by the Central Bank of Uruguay and submit them to the Central Bank.

In addition, AFAPs must submit to the Central Bank:

- Monthly rate of return reports;
- Daily information on the composition of, and transactions regarding, the investment portfolio;
- Monthly and quarterly statistical reports.

Each AFAP must also submit information periodically on its internal governance and its branch offices.

Whistleblowing

Mandatory personal scheme: The custodian must inform the Central Bank if it becomes aware that the AFAP does not comply with the applicable minimum capital requirements.

Standards for service providers

Mandatory personal scheme: Custodians must be financial institutions authorized by the Central Bank to take deposits from the public, or other kinds of institutions approved by the Central Bank.

Auditors must be registered with the Central Bank and must fulfil certain requirements concerning professional experience, independence and specific knowledge of the auditing of financial institutions.

Fees

Mandatory personal scheme: Fees can be a percentage of contributions, a fixed amount or a combination of both. Pension fund administrators (AFAPs) may decrease fees according to the length of membership but must charge the same fees for all members with the same length of membership.

The insured's contribution includes an average 0.98% of earnings for disability and survivor insurance and an average 1.88% of earnings for administrative fees.

Winding up / Merger and acquisition

Mandatory personal scheme: The winding up of a pension fund administrator (AFAP) is subject to the authorization and supervision of the Central Bank. The Central Bank may wind up an AFAP if the:

- Capital of the AFAP falls below the required minimum and the AFAP does not compensate for the shortfall within a specified period of time;
- Special reserve falls below the required minimum more than two times during 1 year;
- AFAP does not compensate for a shortfall in the special reserve within 15 days;
- AFAP does not compensate for a shortfall in the rate of return within a specified period of time;
- AFAP defaults on its obligations, whatever the type and cause of the obligation.

Members of an AFAP that is wound up must choose another AFAP to which their accumulated capital and their share of the return fluctuation reserve are to be transferred. Where members do not exercise a choice, the Central Bank chooses an AFAP for them according to the market share of the different AFAPs.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: The state covers any remaining deficit if both the return fluctuation and the special reserve of a public-sector pension fund administrators (AFAP) (see section Institutional framework) are not sufficient to compensate for investment returns below the minimum rate. Such guarantee does not operate for members of private-sector AFAPs.

The state guarantees the payment of old-age annuities and survivor and disability benefits in the case of insolvency of an insurance company.

Disclosure of information / Individual action

Mandatory personal scheme: Each pension fund administrator (AFAP) must make available to the general public in its offices:

- Details of itself and its directors;
- Its balance sheet for the last fiscal year;
- Information on the value of the pension fund, the return fluctuation and the special reserve;
- Details of fees charged;
- Details of the investment portfolio of the pension fund;
- Details of the custodian;
- Details of the insurance company that insures disability and survivor benefits.

Each AFAP must at least every 6 months provide its members with:

- Statements of their accumulated capital at the beginning and the end of the six-month period;
- Details of all transactions with regard to their individual accounts;
- Information on the rate of return.

The Central Bank receives complaints from members or third parties about the performance of supervised institutions. It must investigate and notify the results of its investigation to the complainant within 15 days.

Other measures

Mandatory personal scheme: None.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Tax-exempt.

Taxation of employer contributions

Mandatory personal scheme: Tax-exempt.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Taxed.

Regulatory and Supervisory Authorities

Central Bank of Uruguay: Supervises pension fund administrators (AFAPs) and custodians. It also supervises insurance companies through the Superintendence of Insurance and Reinsurance.

The Central Bank has the powers to:

- Monitor the procedures used by AFAPs for the affiliation of members and for the transfers of capital to other AFAPs;
- Verify that the fee structure published by an AFAP is respected;
- Monitor the investment of pension fund assets;
- Calculate the average rate of return of all AFAPs;
- Supervise compliance with the requirements concerning minimum capital, return fluctuation and special reserves;
- Supervise compliance with the requirement to contract a group insurance policy with an insurance company to cover disability and survivor benefits;
- Impose sanctions on AFAPs in the case of violations of legal requirements;
- Receive, analyze and verify reports submitted by supervised entities.

The Central Bank is not financed by levies on supervised institutions.

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EUROPE - Voluntary

Information valid at 01-01-2006

Austria

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2005: Company Pensions Act; authorizes five different types of plans.

1990: Company Pensions Act; authorizes different types of plans, regulates minimum requirements concerning vesting and transferability of accrued rights and prohibits arbitrary discrimination in coverage.

1990: Pension Fund Act; regulates the establishment, operation and supervision of single and multi-employer pension funds, includes rules concerning asset management, minimum funding and accounting.

1988: Income Tax Act; sets limits to plan design by regulating the taxation of contributions, investment income and benefits, and defines financial rules for book reserve plans.

1978: Insurance Supervision Act; regulates the establishment, operation and supervision of insurance companies.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

Pension plans must be based on agreements negotiated collectively with the company work council or, if there is no work council in a company, individually with each employee.

Pension plans implemented through the establishment of a pension fund (see section Types of plans) may also be established by groups of employers and must in this case be based on a collective agreement with the sector union.

Types of plans

Plan sponsors may choose between five types of plans. These types are institutionally guided by the five financing methods allowed by the Company Pensions Act.

Participation in a plan is voluntary for covered employees.

Pension funds: Single-employer and multi-employer plans may be implemented through the establishment of single-employer and multi-employer pension funds respectively.

The establishment of a pension fund is subject to the authorization of the Financial Market Authority (*Finanzmarktaufsichtsbehörde*-FMA). The FMA must ensure that the articles of association of a pension fund are in compliance with principles of sound and efficient pension fund business.

Plans implemented through the establishment of a pension fund must cover at least 1,000 employees.

Pension funds must establish a business plan outlining its actuarial and technical provisions. The business plan must be reviewed by an independent external actuary and approved by the FMA.

The operation of pension funds is based on a deed between the pension fund and the sponsoring employer(s). This deed must regulate the following issues in line with the collective or individual agreements that constitute the basis of the pension plan:

- Benefit provisions;
- Employer and employee contribution rates;
- A framework for the investment policy;
- Information obligations for sponsoring employers;
- Administrative charges.

Direct insurance: Sponsoring employers may contract individual life insurance policies with a life insurance company to implement the pension plan.

The establishment of life insurance companies is subject to a license from the FMA.

Occupational group insurance: Sponsoring employers may contract a deed with a life insurance company to implement the pension plan. This deed must regulate the same issues like a deed between a pension fund and the sponsoring employer(s).

Book reserve: Pension promises defined in the plan may be financed through allocating funds to internal reserves.

Fifty per cent of the value of internal reserves must be covered by external assets (see section Protection of rights - subsection on Financial and technical requirements / Reporting).

Support funds: Plans may be implemented through support funds.

No authorization is required for establishing a support fund.

Support funds are neither regulated nor supervised and play only a minor role in complementary occupational pension provision.

Institutional Framework

Pension funds: Pension funds manage the contribution and benefit administration. Pension funds are independent legal entities separate from the sponsoring employer(s). They must take the legal form of joint-stock companies and must have their headquarters in Austria.

The Financial Market Authority (FMA) must be notified if a shareholder of a pension fund holds more than 10% of the share capital. It must also be notified if a shareholder holding more than 10% of the share capital increases its participation to more than 20%, 33% or 50% respectively. The FMA may take appropriate measures if such participation negatively impacts on the soundness of the pension fund administration.

Each pension fund must have a supervisory board consisting of at least five members in the case of single-employer funds and of between 10 and 22 members in the case of multi-employer funds. Members of the board of directors must not have any criminal record and criminal investigations must not have been initiated. The appointment of members of the board of directors is subject to the approval of the FMA.

Members of the board of directors of a single-employer pension fund are required to hold a management position with the sponsoring employer. The directors of a multi-employer pension fund must prove professional experience in the area of pension fund management, banking or insurance and must have been in a management position for at least 3 years.

A board of directors consisting of at least two members is responsible for the daily management of the pension fund.

Unless regulated differently in the articles of association, the representatives of the fund shareholders must outnumber the representatives of the fund members (legally defined as employees covered by the plan, former employees receiving pension benefits from the fund, persons receiving widow pensions and persons with deferred pension rights) by two in the case of multi-employer funds and by one in the case of single-employer funds.

A consulting committee consisting of an equal number of representatives of the fund management and of fund members may be established within a pension fund. The consulting committee has the right to obtain certain information and to make proposals to the supervisory board.

Direct insurance: The life insurance company manages the contribution and benefit administration.

Occupational group insurance: The life insurance company manages the contribution and benefit administration.

A consulting committee consisting of four members may be established with the right to obtain certain information and to make proposals to the supervisory board.

Book reserve: The sponsoring employer manages the contribution and benefit administration.

The company's work council has the right to obtain information and to control the partial external financing (see section Protection of rights - subsection on Financial and technical requirements / Reporting).

Support funds: Support funds are legal entities separate from the sponsoring employer.

No further legal rules.

Coverage

All plans: Private-sector employees.

The self-employed may only contribute on their own behalf if they employ at least one employee for which they sponsor or co-sponsor a pension plan implemented through a pension fund. Civil servants and public-sector employees may only be covered by a pension plan implemented through a pension fund.

A Federal Pension Fund covers civil servants and public workers working for the federal government. Many local governments have also established pension funds.

Discrimination in coverage is prohibited if it is based on arbitrary criteria such as, for example, gender. The number of hours worked does not constitute an arbitrary criterion as such and the coverage of part-time workers depends on plan rules.

Financing / Investment

Sources of funds

Employee contributions

All defined benefit plans: While employee contributions to defined benefit plans are not formally prohibited, employees do not contribute.

Pension funds, direct insurance and occupational group insurance: Employee contributions are voluntary and, in the case of pension funds, yearly employee contributions must not exceed yearly employer contributions.

Employees can cease contributing at any time, or interrupt their contributions for at least 2 years.

Contributions are paid on the total salary with the contribution rate usually ranging between 1% and 3% of salary below the social security ceiling (i.e. EUR 3,750 a month) and 5% and 15% of salary above the ceiling.

Book reserve and support funds: Employees do not contribute.

Employer contributions

All plans: Employer contributions are compulsory.

In the case of defined contribution plans, contributions are paid on the total salary with the contribution rate usually ranging between 1% and 3% of salary below the social security ceiling (i.e. EUR 3,750 a month) and 5% and 15% of salary above the ceiling.

In the case of defined benefit plans, the contribution rate depends on the benefit structure and thus varies from plan to plan.

Other sources of funds

All plans: None.

Methods of financing

Pension funds, direct insurance, occupational group insurance and support funds: Funded.

Book reserve: Special system of funding (internal accounting for pension liabilities). The value of internal reserves must partially be covered by external assets (see section Protection of rights - subsection on Financial and technical requirements / Reporting).

Asset management

Pension funds: The management board has to ensure that the investment of the assets allocated to an investment and risk sharing group is performed by persons who are professionally qualified to do so. They must also have the relevant professional experience, in particular in the areas of portfolio management, risk management as well as asset liability management and that appropriate technical resources are available for risk management.

The investment of the assets allocated to an investment and risk sharing group shall be effected

within prudent limits and taking into account other legal provisions.

The Financial Market Authority (FMA) has to determine by regulation minimum standards for risk management by September 2006. In particular, it has to specify minimum standards pertaining to:

- Diversification of risk;
- Reduction of risk;
- Asset liability management;
- Type and contents of the statements submitted by pension funds, substantiating that its risk management complies with said minimum standards;
- The time limit within which said substantiation shall be submitted.

As long as pension funds have not provided substantiation of their compliance with the minimum standards, they are obliged to apply special quantitative investment rules determined by the FMA.

The assets acquired for the benefit of an investment and risk sharing group can be allocated to the following investment categories:

- Cash deposits in banks and cash on hand;
- Loans and credits;
- Securities representing money claims;
- Shares, negotiable securities equivalent to shares, corporate bonds and other equity securities;
- Real estate;
- Other assets.

Investments in unit certificates of investment funds and real estate funds will be apportioned according to the above-mentioned investment categories.

Investment in shares, negotiable securities equivalent to shares, corporate bonds and other equity securities and other assets will be limited to an overall maximum of 70%. If the pension fund guarantees a minimum yield, these types of investments are limited to an overall maximum of 50% excluding investment grade corporate bonds.

Investment in assets which are denominated in another currency than that of the liabilities are limited to a maximum of 30% of the assets allocated to the investment and risk sharing group. If the exchange risk is eliminated by hedging transactions, these investments may be attributed to the euro-denominated investments.

With the exception of investments in debt securities of the federal government, of a federal province, of another member state of the Economic European Area (EEA) or of a constituent state of another EEA member state, reinvestment in employers paying contributions to the investment and risk sharing group are limited to a maximum of 5% of the assets allocated to the investment and risk sharing group.

Investment in debt securities, shares and securities equivalent to shares which are not admitted to trading on a regulated market are limited to a maximum of 30% of the assets allocated to the investment and risk sharing group.

With the exception of investments in debt securities of the federal government, of a federal province, of another EEA member state or of a constituent state of another EEA member state, investments in assets of the same issuer are limited to a maximum of 5% of the assets allocated to the investment and risk sharing group.

Investments in assets of issuers which belong to one group will be limited to a maximum of 10% of the assets allocated to the investment and risk sharing group.

Fund assets must be kept by one or more custodians.

Direct insurance and occupational group insurance: Assets are managed by the life insurance company.

Assets that may only be included for covering the technical provisions are:

- Investments in government bonds up to 100%;
- Corporate bonds up to limits set according to each applicable category of debt security;
- Equities up to 40%;
- Investment funds up to 80%;

Besides overall investment limits, issuer limits are also envisaged in the regulation of the FMA on investments for covering technical provisions used by undertakings operating the contractual insurance business.

Book reserve: Assets covering internal reserves (see section Protection of rights - subsection on Financial and technical requirements / Reporting) must be invested in domestic corporate (subject to certain restrictions) or government bonds or in units of investment funds investing in corporate or government bonds.

No legal rules regarding who may be responsible for the management of these assets and this may be done by the sponsoring employer.

Support funds: No legal rules.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Older defined benefit plans usually require a minimum service period from 5 to 10 years.

Vesting rules

Pension funds: Employee contributions vest immediately. Employer contributions vest after a maximum of 5 years, but plans may provide for a shorter period.

Direct insurance and occupational group insurance: Employee and employer contributions vest immediately.

Book reserve: If vesting is regulated in the pension plan, pension promises must vest upon termination of employment after a maximum of 10 years. If vesting is not regulated in the pension plan, pension promises vest upon termination of employment after 5 years.

However, promises are never vested if the employee terminates the employment or if a dismissal is attributable to the employee's behaviour.

Support funds: No vesting of employer contributions.

Preservation, portability, transferability

Pension funds: Upon termination of employment before retirement, a vested benefit amount must be calculated that equals at least 95% of the cash value of the accrued rights.

The employee may choose between the following options:

- The vested benefit amount may be transformed into a deferred pension right;
- The vested benefit amount may be transferred to the plan of the new employer if implemented through a pension fund or direct insurance;
- The benefit accrual may be continued on the basis of own contributions if contributions have already been paid for at least 5 years.

If the employee does not make a choice within 6 months of the termination of employment, the vested benefit amount is automatically transformed into a deferred pension right. If the vested benefit amount is less than EUR 9,900 the employee may request a lump-sum payment immediately after terminating employment.

There are no legal requirements for deferred pension rights to be indexed and this depends on plan rules.

Direct insurance: Upon termination of employment before retirement, the insurance policy remains the property of the employee and a vested benefit amount must be calculated that equals the accumulated capital.

The employee may choose between the following options:

- The insurance policy may be transformed into a premium free policy with deferred pension rights that are further increased by investment returns;
- The vested benefit amount may be transferred to the plan of the new employer if implemented through a pension fund or direct insurance;
- Benefits may continue to be accumulated on the basis of insured's contributions.

If the employee does not make a choice within 6 months of the termination of employment, the vested benefit amount is automatically transformed into a deferred pension right. If the vested benefit amount is less than EUR 9,900 the employee may request a lump-sum payment immediately after terminating

employment.

There are no legal requirements for deferred pension rights to be indexed and this depends on plan rules.

Occupational group insurance: Upon termination of employment before retirement, a vested benefit amount must be calculated that equals the accumulated capital.

The employee may choose between the following options:

- The insurance policy may be transformed into a premium free policy with deferred pension rights that are further increased by investment returns;
- The vested benefit amount may be transferred to the plan of the new employer if implemented through a pension fund or direct insurance;
- Benefits may continue to be accumulated on the basis of insured's contributions.

If the employee does not make a choice within 6 months of the termination of employment, the vested benefit amount is automatically transformed into a deferred pension right. If the vested benefit amount is less than EUR 9,900 the employee may request a lump-sum payment immediately after terminating employment.

There are no legal requirements for deferred pension rights to be indexed and this depends on plan rules.

Book reserve: Upon termination of employment before retirement, a vested benefit amount must be calculated based on the age of the member upon joining the plan, the retirement age in the plan and a legally prescribed technical interest rate.

The employee may choose between the following options:

- The vested benefit amount may be transformed into a deferred pension right;
- The vested benefit amount may be transferred to the plan of the new employer if implemented through a pension fund or direct insurance.

If the employee does not make a choice within 6 months of the termination of employment, the vested benefit amount is automatically transformed into a deferred pension right. If the vested benefit amount is less than EUR 9,900 the employee may request a lump-sum payment immediately after terminating employment.

There are no legal requirements for deferred pension rights to be indexed and this depends on plan rules.

Support funds: No portability and no transferability. If benefits are paid, equal treatment is required for persons who worked in the company for at least 5 years. Rights are, therefore, only conditionally preserved.

Retirement benefits

Benefit qualifying conditions

All plans: No legal rules.

Retirement age was usually age 60 for men and 55 for women. Following decisions by the European Court of Justice, an equal retirement age of 65 for both men and women has recently been introduced in most plans along with the possibility of early retirement with an actuarially reduced pension. If an early partial pension is taken in the social security scheme, an employee must retire from the occupational pension plan.

Benefit structure / formula

Pension funds: Defined benefit or defined contribution. A lump-sum benefit may be paid if the vested benefit amount at retirement is less than EUR 9,900. Otherwise a pension is provided for life.

Defined benefit plans usually provide for pension accrual at a constant rate of between 0.1% and 0.3% for salary up to the social security ceiling (i.e. EUR 3,750 a month) and between 1% and 2% for salary above that ceiling. Benefits are integrated with social security benefits and the total target replacement rate including social security benefits is usually 70% of final earnings. The Income Tax Act prohibits a total target replacement rate above 80% of final earnings.

Direct insurance: Defined contribution. A lump-sum benefit may be paid if the vested benefit amount

at retirement is less than EUR 9,900. Otherwise a pension is provided for life.

Occupational group insurance: Defined benefit or defined contribution. A lump-sum benefit may be paid if the vested benefit amount at retirement is less than EUR 9,900. Otherwise a pension is provided for life.

Book reserve: Defined benefit with similar benefit structures as defined benefit plans implemented through pension funds. A lump-sum benefit may be paid if the vested benefit amount at retirement is less than EUR 9,900. Otherwise a pension is provided for life.

The sponsoring employer can interrupt the payment of one-half of the benefits if provided for in the pension plan or if a continuation of payment would endanger the existence of the company.

Support funds: Defined benefit plans provide flat-rate benefits.

Benefit adjustment

Pension funds: No legal rules.

Plans usually provide for discretionary increases in line with adjustments of social security benefits.

Direct insurance and occupational group insurance: No legal rules.

Usually no benefit adjustment.

Book reserve: If not otherwise regulated in the pension plan, pensions in payment must be increased in line with adjustments of social security benefits.

Support funds: No legal rules.

Usually no benefit adjustment.

Survivors

Pension funds: Survivor benefits must be provided. No legal rules concerning eligibility and benefit structure.

A widow(er)'s pension of 60%, and an orphan's pension of 10%, of the deceased member's actual or projected retirement benefit are usually paid.

Direct insurance and occupational group insurance: No legal rules.

A lump sum of two or three times the deceased member's annual salary is usually paid to the widow(er).

Book reserve: No legal rules.

A widow(er)'s pension and an orphan's pension of 60% and 10% respectively, of the deceased member's actual or projected retirement benefit are usually paid.

Support funds: No legal rules.

A flat-rate pension is usually paid to both the widow(er) and orphans.

Disability

All plans: No legal rules.

Plans usually provide for the payment of disability benefits.

Protection of Rights

Protection of Assets

Pension funds: Pension fund assets must be held separately from the assets of the sponsoring employer.

Assets must be kept by one or more custodians.

Direct insurance and occupational group insurance: Pensions are implemented through contracts with life insurance companies. Assets are, therefore, held by the life insurance company and are therefore separated from the assets of the sponsoring employer.

Book reserve: No legal rules for the assets partially covering the value of internal reserves to be separated from the assets of the sponsoring employer.

Support funds: No legal rules.

Financial and Technical Requirements / Reporting

Pension funds: In order to compensate for potential

investment losses, every pension fund must establish a volatility reserve of between 10% and 20% of the pension liabilities. The reserve is financed by a part of the employer contributions.

Pension funds must annually prepare financial statements that must be audited by an external auditor. The audited financial statements must be submitted to the Financial Market Authority (FMA).

Quarterly investment reports must also be submitted to the FMA.

Pension funds must employ an actuary to establish and implement the business plan (which contains the actuarial and technical provisions). In addition, pension funds must annually appoint an independent external actuary to examine whether:

- The business plan is correctly implemented;
- Any changes to the current contribution rates or benefit structure are necessary;
- Funding shortfalls exist.

The independent external actuary must prepare a report on the actuarial examination that must be submitted to the FMA.

A minimum funding requirement corresponding to the accumulated benefit obligation applies. In the case of underfunding, the employer is obliged to secure an appropriate funding level within a period of 10 years.

Direct insurance and occupational group insurance: A minimum funding requirement similar to that for pension funds applies.

Insurance companies are required to regularly report to the FMA on their operation.

Book reserve: At least 50% of the value of internal reserves must be covered by external assets.

No legal requirements regarding reporting.

Support funds: No legal rules.

Whistleblowing

Pension funds: External independent actuaries must notify the Financial Market Authority immediately of any facts that are likely to:

- Endanger the sound operation of the pension fund;
- Hamper the fulfilment of benefit obligations;
- Indicate noncompliance with legal requirements.

Direct insurance, occupational group insurance, book reserve and support funds: No legal rules.

Standards for service providers

All plans: Custodians must be credit institutions authorized by the Financial Market Authority (FMA) to operate as deposit taking institutions.

Auditors must be licensed by the FMA. The same auditor may audit the financial statements of a pension fund for a maximum of six consecutive years. The auditor's appointment must be notified to the FMA which may disapprove of the appointment within one month.

Actuaries must have proven proficiency in the field of actuarial analysis. External actuaries must moreover be independent (defined as not receiving more than 30% of yearly income from, and not carrying out any other function for, the pension fund). The appointment of both employed actuaries and external actuaries must be notified to the FMA which may disapprove of the appointment within one month.

Fees

Pension funds: Administrative charges must be defined in the deed concluded between the pension fund and the sponsoring employer (see section Types of plans).

Direct insurance, occupational group insurance, book reserve and support funds: No legal rules.

Winding up / Merger and acquisition

Pension funds: A pension fund may be wound up by a voluntary decision of the shareholders or upon the decision of the Financial Market Authority (FMA) to withdraw the authorization to establish the fund. Voluntary winding up of a pension fund is subject to approval by the FMA.

The fund assets covering benefit liabilities must be used to satisfy the claims of members. If these assets

are not sufficient, all additional assets of the pension fund must first be used to fully satisfy the members.

Mergers of pension funds are subject to approval by the FMA. Approval is granted if the merger does not endanger the rights of members of the merging pension funds.

Direct insurance, occupational group insurance: The winding up of insurance companies is governed by the Insurance Supervision Act.

Book reserve: The assets that partially cover the value of internal reserves (see section Protection of rights - subsection on Financial and technical requirements / Reporting) must upon insolvency of the sponsoring employer be used solely to satisfy the claims of members.

Support funds: No legal rules.

Bankruptcy: Insolvency Insurance / Compensation Fund

Pension funds, direct insurance, occupational group insurance and support funds: No legal rules.

Book reserve: The employer is not required to insure the pension rights of the members and no compensation fund exists.

Rights are partially protected in the case of insolvency through the requirement to cover at least 50% of the value of internal reserves by external assets.

Disclosure of information / Individual action

All plans: No legal requirements for information to be disclosed to individual plan members, but plan rules may provide for this.

No legal provisions for resolving complaints or disputes between plan members and the plan management. Civil courts decide on disputes if these cannot be solved through private settlements.

Pension funds, direct insurance, occupational group insurance: Individual plan members may request yearly information on their accrued rights from the pension fund or the insurance company respectively.

Book reserve: The company work council has information and control rights.

Other measures

All plans: No legal rules.

Tax Treatment

Taxation of employee contributions

Pension funds, direct insurance and occupational group insurance: Employee contributions are special expenses. 25% of an employee's special expenses (employee contributions and other special expenses) are tax-deductible up to the limit of EUR 2,920 a year for a single person and EUR 5,840 for a married couple.

If the annual salary exceeds EUR 36,400, these limits are gradually decreased and no tax-deductible special expenses can be claimed if the annual salary exceeds EUR 50,900.

Book reserve and support funds: Employees do not contribute.

Taxation of employer contributions

Pension funds and occupational group insurance: Employer contributions to defined benefit plans are tax-deductible company expenses provided that the total benefit target including social security benefits does not exceed 80% of current salary.

Employer contributions to defined contribution plans up to 10.25% of salary are tax-deductible company expenses.

Employer contributions do not constitute taxable fringe benefits for employees.

Direct insurance: Premiums up to EUR 300 a year are tax-deductible company expenses.

The part of any premium exceeding EUR 300 is a taxable fringe benefit for the employee.

Book reserve: Allocations to internal reserves are

tax-deductible against income and corporation tax if the total benefit target including social security benefits does not exceed 80% of current salary.

Allocations do not constitute taxable fringe benefits for employees.

Support funds: Employer contributions up to 10% of salary are tax-deductible company expenses.

Employer contributions do not constitute taxable fringe benefits for employees.

Taxation of investment income

Pension funds, occupational group insurance and support funds: Tax-exempt.

Direct insurance: Taxed at a rate of 20%.

Book reserve: Investment income is considered as company profit and subject to profit tax.

Taxation of benefits

Pension funds and occupational group insurance: Pensions are taxed as earned income. The portion of pension accrued by employer contributions is fully taxed. Only 25% of the portion of pension accrued by employee contributions is taxed.

Direct insurance: Pensions are taxed as earned income from the moment the total value of benefits paid exceeds the capital value of the pension at retirement.

Book reserve and support funds: Benefits are taxed as earned income.

Regulatory and Supervisory Authorities

Financial Market Authority: Supervises pension funds, insurance companies and other financial service providers.

If pension rights are at risk, the Financial Market Authority (FMA) may take necessary actions to secure these rights.

The FMA carries out supervision through ex ante, current and ex post supervisory actions:

- Ex ante: approval of technical provisions of pension funds and insurance companies;
- Current: expert consultations, on-site inspections, withdrawal of authorization, enforcement of fitness and propriety requirements;
- Ex post: analysis of yearly balances and of quarterly investment reports.

The FMA is financed mainly through levies on supervised entities.

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Federal Ministry of Finance: Supervises the financing of book reserve plans.

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Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2003: General law on complementary pensions; regulates the establishment of complementary occupational pension plans, coverage, waiting period, vesting and the options for plan members upon termination of employment before retirement; replaces as of 1 January 2004 the first general law on complementary pensions of 1995.

1975: Law on the supervision of insurance companies; regulates the establishment and operation of insurance companies and is generally also applicable to pension funds.

1992: Income Tax Code and Stamp Duty Code; regulate the tax treatment of contributions, investment income and benefits.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis complementary occupational pension plans for their employees.

If the plan is contributory, covers all employees of an employer and the employer has a work council or a health, safety and workplace improvement committee then the plan must be based on a collective agreement. If there is no such work council or committee the plan must be based on an amendment to the staff regulations.

Employee and employer representatives may, on a voluntary basis, establish a sectoral plan. A sectoral plan must always be based on a collective agreement. When a sectoral plan is established, all the employers of the sector must participate.

Associations of self-employed persons may establish profession-wide plans to which self-employed persons in that profession may affiliate on a voluntary basis.

Types of plans

All plans: Company, multi-employer, sectoral and profession-wide occupational pension plans may be implemented through pension funds or through group insurance contracts with life insurance companies.

The establishment of a pension fund or an insurance company is subject to the authorization of the Banking, Finance and Insurance Commission. The following documents and information must, among others, be attached to the application for authorization:

- By-laws;
- Details of the plan rules (in the case of pension funds);
- Details of the persons in charge of the management of the fund or company;
- Business plan including the technical and financial basis (e.g. for calculating contributions or technical provisions);
- Proof of the required solvency margin in the case of pension funds and the guarantee fund in the case of insurance companies (see section Protection of rights, Financial and technical requirements / reporting).

Upon establishment of a plan, membership is voluntary for all existing covered employees unless the plan is based on a collective agreement. Participation is mandatory for covered employees who join the employer after the plan's establishment.

Favourable tax treatment may be granted to the plan as long as it does not provide for a replacement rate (including social security benefits) over 80% of final salary. Plans which receive favourable tax treatment are known as "social pension plans". Plans which do not receive favourable tax treatment are not covered further in the following sections.

Pension funds: Insured persons with incomplete careers may make voluntary contributions to increase their years of service up to a maximum full career period. Such contributions may not exceed EUR 1,500

a year.

Institutional Framework

All plans: At least two persons must be in charge of the management of a pension fund or life insurance company and they must be professionally reliable and have adequate experience.

Pension funds: Pension funds are independent legal entities established either as nonprofit-making associations or mutual insurance associations. Pension funds are treated legally as life insurance companies and most legal requirements for life insurance companies also apply to them.

The internal governance structure of pension funds must comply with the general requirements for nonprofit-making or mutual insurance associations respectively.

If the pension fund takes the legal form of a nonprofit-making association, it must be governed by a general assembly and a board of directors. The board of directors has a wide range of powers with the exception of the following, which are the competence of the general assembly:

- Amendment to the articles of association;
- Liquidation of the association;
- Approval of the accounts;
- Appointment of the board of directors;
- Discharge of the directors and statutory auditor;
- Exclusion of a member of the general assembly;
- Dissolution of the pension plan.

The legal provisions concerning mutual insurance associations only regulate the contents of the articles of association and require that they must address the organization and management of the association.

Pension funds manage the contribution and benefit administration.

Group insurance: Life insurance companies must be established as joint-stock companies, mutual insurance associations or cooperatives.

The life insurance company manages the contribution and benefit administration.

Coverage

All plans: Private- and public-sector employees including civil servants and self-employed persons.

Discrimination between employees is, in general, prohibited. Any distinction between treatment of employees which is not based on an objective criterion or is not well-founded is not permissible.

Discrimination between men and women is prohibited for service after 17 May 1990. Different mortality tables may be used for benefit calculation purposes in the case of defined contribution plans (however contributions to those plans must be the same for men and women), for the conversion of a lump sum into an annuity or the reverse or for the determination of the tariff used by insurance companies.

Discrimination on the basis of age and the length of the contract is, in general, prohibited.

Part-time and full-time employees must be treated equally taking into account the reduction of working hours.

Financing / Investment

Sources of funds

Employee contributions

All plans: Plans may be contributory or noncontributory.

The employee contribution rate depends on plan rules and is frequently lower for the part of the salary below the social security ceiling than for the part of the salary above that ceiling.

Employer contributions

All plans: The employer contribution rate depends on plan rules and is frequently lower for the part of the salary below the social security ceiling than for the part of the salary above that ceiling.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded. The financing method may be aggregate cost method, projected unit credit, or unit credit.

Pay-as-you-go and book reserve methods are not allowed. However, some pension funds are (partially) exempt from funding because they still benefit from transitional measures which were applied when the legislation on pension funds came into force.

Asset management

All plans: Pension funds may manage the assets in-house or contract the asset management to an asset manager. Insurance companies usually manage the assets in-house.

Members of defined contribution plans may be given a choice between different investment options.

Of total assets invested:

- A maximum of 15% may be in the sponsoring employer(s);
- A maximum of 10% may be in bonds issued by nonOECD member countries or companies in these countries;
- A maximum of 10% may be in mutual investment funds not subject to the legislation of an EU member country;
- A maximum of 10% may be in unquoted securities;
- A maximum of 10% may be in a single piece of real estate;
- A maximum of 5% may be in real estate certificates issued by a single issuer;
- A maximum of 5% may be in options, futures and other derivatives not serving as a hedge;
- A maximum of 5% may be in bonds and equities issued by a single issuer and/or a loan to a single borrower;
- A maximum of 5% may be in nonguaranteed loans;
- A maximum of 1% may be in nonguaranteed loans to a single borrower.

In addition, all investments must respect the criteria of security, profitability, liquidity, diversification and dispersion. Currency matching or convertibility between assets and technical provisions is also required.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: Waiting periods are prohibited for workers older than age 25.

Vesting rules

All plans: Employee contributions vest immediately.

Employer contributions vest after 1 year.

Preservation, portability, transferability

All plans: Upon terminating employment before retirement or at any moment after the termination, members may:

- Preserve their vested rights in the plan of the former employer;
- Transfer their vested rights to the plan of their new employer. The plan of the new employer must accept the transfer-in;
- Transfer their vested rights to a pension institution that fully shares profits amongst the members and limits the costs.

Members who cease employment with an employer and who have made at least 42 months of contributions may continue to contribute to the plan. The annual contribution may not exceed EUR 1,500.

There is no legal requirement to index preserved rights.

Retirement benefits

Benefit qualifying conditions

All plans: The retirement age must be the same for men and women.

Most plans provide for a retirement age of 65 (the retirement age under the social security scheme is 65 for men while the retirement age for women is being increased gradually to age 65 by 2009). Plans often

provide for early retirement.

Benefit structure / formula

All plans: Defined benefit or defined contribution.

Defined contribution plans have recently become more frequent.

In the case of defined benefit plans, the employer usually promises a benefit of a proportion of final salary depending on the number of years of service.

Defined benefit plans are usually integrated with the social security scheme by providing for different accrual rates for the parts below and above the social security ceiling respectively (step-rate integration). An average plan may provide for a benefit target of 20% of final salary up to the social security ceiling and 70% of final salary above the social security ceiling.

Tax rules require that the replacement rate (including social security benefits) does not exceed 80% of final salary.

Pension funds and life insurance companies pay benefits as pensions or lump sums. Lump sums are more common. A member entitled to a lump sum has the right to request a corresponding annuity instead. In this case, the minimum annuity to which the member is entitled is calculated using different tables for men and women.

Benefit adjustment

All plans: Benefit adjustments may be provided, but pension funds and life insurance companies are not obliged to provide indexation.

Survivors

All plans: Survivor benefits are usually provided to the spouse and orphans.

No legal rules concerning benefit qualifying conditions or benefit structure and these depend on plan rules. Members of defined contribution plans are usually given a choice between several options for the coverage of survivor benefits.

Survivor benefits are usually between 50% and 60% of the deceased member's projected or actual retirement pension.

Discrimination between widows and widowers is prohibited.

Disability

All plans: Disability benefits are usually provided for the part of the salary exceeding the social security ceiling.

No legal rules concerning benefit qualifying conditions or benefit structure and these depend on plan rules. Members of defined contribution plans are usually given a choice between several options for the coverage of disability benefits.

The full disability benefit is usually 70% of the part of the salary exceeding the social security ceiling and is reduced in the case of partial disability.

Protection of Rights

Protection of Assets

All plans: Pension plans and life insurance companies must hold plan assets completely separate from the assets of the sponsoring employer(s).

Financial and Technical Requirements / Reporting

All plans: An actuary must be appointed who must submit a report on the pension fund's or life insurance company's technical provisions to the Banking, Finance and Insurance Commission and advise the pension fund or the life insurance company with regard to financing, funding and reinsurance.

If pension funds or life insurance companies do not have sufficient assets to cover technical provisions and the solvency margin, legally defined recovery measures (i.e. a recovery plan) must be implemented under the supervision of the Banking, Finance and Insurance Commission.

A statutory auditor must be appointed who must submit a report on the plan's financial and managerial situation to the Banking, Finance and Insurance Commission. Pension funds and life insurance

companies are subject to specific accounting rules.

Each pension fund or life insurance company must submit the following annually to the Banking, Finance and Insurance Commission:

- Annual accounts;
- A management report of the persons managing the fund or life insurance company;
- The statutory auditor's report to the general assembly;
- The minutes of the meeting of the general assembly;
- A summary statement and a detailed list of assets covering technical provisions;
- A statement with regard to the solvency margin;
- Certain statistics;
- Report from the appointed actuary.

Pension funds: A minimum funding requirement calculated on the basis of legally prescribed mortality tables and an interest rate of 6% apply to defined benefit plans.

Pension funds must have a solvency margin with regard to death and invalidity benefits based on the risk capitals insured.

Group insurance: Life insurance companies must have a solvency margin with regard to all of their activities. The guarantee fund is one-third of the solvency margin.

Whistleblowing

All plans: The statutory auditor and appointed actuary must inform the Banking, Finance and Insurance Commission of every fact or decision of which they are aware that constitutes a violation of the general law on complementary pensions or its implementing decrees.

Standards for service providers

All plans: Statutory auditors must be authorized by the Banking, Finance and Insurance Commission and must:

- Be a national of an EU member country;
- Be a member of the Belgian Institute of Auditors;
- Have carried out a professional activity during at least 5 years that shows they have experience in the areas of organization, accounting and supervision of companies, that they are adequately qualified and have the necessary expertise to perform controls in an independent manner;
- Provide proof of their technical knowledge of the transactions carried out by the supervised company and of their knowledge of the regulations relating to the supervision of such companies;
- Have thorough knowledge of one of the Belgian languages;
- Enjoy civil and political rights;
- Not have incurred any convictions as set out by law;
- Not have been declared bankrupt unless having been restored to honour.

Appointed actuaries must meet certain requirements related to actuarial training, but there are no legal requirements for the exercise of the profession. Actuaries must:

- Be a national of an EU member country;
- Hold a master diploma in actuarial science;
- Have sufficient knowledge of one of the Belgian languages;
- Have carried out a professional activity during at least 5 years that shows they possess sufficient experience as an actuary.

Fees

All plans: No legal rules.

"Social pension plans" (see section Type of Plans), which are plans that meet certain conditions and, in return, benefit from fiscal incentives, must limit their expenses.

Winding up / Merger and acquisition

All plans: Pension funds and life insurance companies are wound up after a decision of their general assembly to renounce the authorization of the fund or company or after revocation of the authorization by the Banking, Finance and Insurance Commission. The authorization may be revoked:

- In the case of serious violations of legal requirements (especially of financial

requirements);
- If recovery measures to restore an adequate financial situation fail;
- In the case of insolvency of a life insurance company.

If the assets covering technical provisions are not sufficient upon winding up, the claims of members have priority with regard to all other assets of the pension fund or life insurance company.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: Legal requirements concerning reinsurance of pension funds and insurance companies apply.

Disclosure of information / Individual action

All plans: On request of the member, the pension fund, life insurance company or the plan sponsor must provide a copy of the plan rules. The pension fund or life insurance company must inform members yearly about their vested benefits and vested rights (together with an explanation of the elements used to calculate them), on the vested rights of the year before, and on request, provide a historical record of vested benefits and rights.

The pension fund or life insurance company or the person indicated in the collective agreement must provide an annual report on the administration of the pension plan. The report must contain information about the method of financing, investment strategy, return on investments, cost structure and, if applicable, profit sharing. This report is given to plan sponsor and, on their request, to plan members.

The Banking, Finance and Insurance Commission receives complaints from plan members and attempts to resolve disputes.

Other measures

All plans: None.

Tax Treatment

All plans: Favourable tax treatment of employer and employee contributions is only granted if the plan does not provide for a replacement rate (including social security benefits) exceeding 80% of final salary.

Taxation of employee contributions

All plans: Tax-deductible.

Taxation of employer contributions

All plans: Tax-deductible.

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

All plans: Lump-sum benefits are taxed at a flat rate of 16.5% for capital accumulated by contributions made before 1 January 1993 and 10% for capital accumulated by contributions made on or after that date.

Pensions are taxed at the pensioner's marginal tax rate. If the benefit is a lump sum, the member can request to be paid a corresponding annuity instead. In this case, the annuity is taxed on more favourable terms.

Regulatory and Supervisory Authorities

Banking, Finance and Insurance Commission: Supervises pension plans and insurance companies. With regard to supervised entities it has the powers to:

- Request any information and documents it deems necessary;
- Require all measures it deems necessary to safeguard the members' or beneficiaries' interests;
- Carry out on-site inspections;
- Impose the replacement of persons managing pension funds or life insurance companies;
- Require or impose a recovery plan;
- Appoint a special auditor;

- Limit or prohibit the free disposal of assets;
- Prohibit certain transactions;
- Partially or fully transfer liabilities;
- Withdraw their authorization;
- Impose administrative penalties and criminal sanctions.

The Banking, Finance and Insurance Commission is financed by levies on supervised entities.

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Exchange rate: USD 1.00
equals 6.31 kroner (DKK)

Regulatory Framework

2005: Consolidated Supervision of Company Pension Funds Act; regulates the establishment, operation, and supervision of company pension funds and includes rules concerning investment, minimum funding, annual reporting, and accounting.

2005: Consolidated Insurance Business Act; regulates the establishment, operation, and supervision of insurance companies and industry-wide pension funds and includes rules concerning investment, minimum funding, annual reporting, and accounting.

2005: Taxation of Pension Investment Returns Act; regulates the tax treatment of investment income (replaces the Real Interest Tax Act - a number of transitional provisions apply).

2005: Taxation of Pension Plans Act; defines minimum standards concerning vesting and retirement age and regulates the tax treatment of contributions and benefits.

2001: Consolidated Unisex Act; requires equal treatment of men and women under occupational pension plans (thereby implementing EU Directive 86/378 EEC).

1986: Insurance Contract Act; protects consumers against unreasonable insurance terms.

Plan Profile

Plan sponsors

Employer and employee representatives in a particular industry may, on a voluntary basis, establish industry-wide complementary occupational pension plans through centralized collective agreements.

Single employers may, on a voluntary basis, establish a complementary occupational pension plan at the company level provided that they are not covered by a collective agreement establishing an industry-wide pension plan. These plans are based on an agreement between employer and employees at the company level.

The self-employed may establish profession-wide pension plans that are subject to the same legal requirements as industry-wide pension plans for employees.

Most employees who benefit from a complementary occupational pension plan are covered by an industry-wide plan.

Types of plans

Industry-wide pension plans: Employer and employee representatives may establish industry-wide pension plans through collective agreements.

Participation is mandatory for all employees to which the collective agreement creating the plan applies.

Company pension plans: Single employers may establish a company pension plan based on an agreement between the employer and employees. The plan is formally created through a ballot of the pension plan's future members at the first general meeting. Company pension plans must cover at least 50 employees.

Participation is mandatory for all employees covered by the plan.

All plans: Plans must be registered with the Danish Commerce and Companies Agency and this registration is subject to the authorization of the Danish Financial Supervisory Authority.

There are no legal rules concerning additional voluntary contributions and this depends on plan rules.

Institutional Framework

Industry-wide pension plans: Industry-wide pension plans may be implemented through the establishment of an industry-wide pension fund or

through a contract with a life insurance company.

In most cases, industry-wide pension funds are subject to the same legal rules as mutual insurance companies.

Pension funds are governed by a board of directors. At least 50% of the board members must be elected by, and chosen from, the plan members (legally defined as policyholders).

Company pension plans: Company pension plans may be implemented through the establishment of a company pension fund or through a contract with a life insurance company.

Company pension funds are governed by a board of directors. At least 50% of the board members must be elected by, and chosen from, the plan members (legally defined as employees covered by the plan, former employees receiving benefits, persons receiving spouses' pensions, and persons with deferred pension rights). The appointed chief administrator must not be a member of the board of directors.

All plans: Pension funds are considered as insurance entities.

Pension funds and insurance companies must be licensed by the Danish Financial Supervisory Authority (DFSA). In order to obtain a license, both the articles of association and the technical basis must be submitted to the DFSA and these must comply with detailed rules prescribed by the Authority. Minimum capital requirements apply.

Pension funds and insurance companies administer contributions and benefits in-house.

The DFSA may disqualify members of the board of directors of a pension fund or insurance company if they lack sufficient experience or if they are not of good character. The Minister for Economic Affairs appoints one member to the board of directors of insurance companies limited by shares.

There are no legal rules about whether pension funds are profit- or nonprofit-making entities. In practice, nonprofit-making funds prevail. Life insurance companies are profit-making entities.

Coverage

All plans: Private- and public-sector employees except civil servants.

Discrimination between women and men is prohibited. Pension funds and insurance companies must base the calculation of contribution rates on unisex mortality tables for all members affiliated after 30 June 1999. Health requirements for admission may exist. Genetic testing is not allowed.

The self-employed may establish profession-wide pension plans that are subject to the same legal requirements as industry-wide pension plans for employees. (More commonly, self-employed persons make provisions for retirement through participation in individual savings plans.)

A pay-as-you-go financed civil servants occupational pension plan has been in force since 1919.

No further details of the plans covering self-employed persons and civil servants are provided in the following sections.

Industry-wide pension plans: Plans cover all employees to which the collective agreement creating the pension plan applies. Admission requirements may differ from plan to plan. Most plans cover part-time employees. Minimum and maximum ages for joining the plan do not usually apply.

Company pension plans: Some plans restrict admission to senior employees. Seniority requirements differ from plan to plan. Most plans define minimum and maximum ages for joining the plan, the former being usually between ages 25 and 30 and the latter being usually between ages 55 and 60.

Financing / Investment

Sources of funds

All plans: No legal rules.

The total employer and employee contribution rate

varies between 5% and 15% of salary, depending on plan rules and the age of the plan. More recently established plans have a lower contribution rate than mature plans. Most mature plans, including most company plans, have a total contribution rate of between 12% and 15% of salary.

Employee contributions

All plans: Plans are contributory.

Employees usually contribute 1/3 of total contributions; a few plans, 1/2 of total contributions.

Employer contributions

All plans: Plans are contributory.

Employers usually contribute 2/3 of total contributions; a few plans, 1/2 of total contributions.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Most plans are insured plans.

Asset management

All plans: In the case of plans implemented through the establishment of pension funds, the funds may manage the assets in-house or contract the asset management to external asset managers. The responsibility for formulating a general investment strategy rests with the fund's board of directors. In the case of insured plans, the life insurance company manages the assets.

As a general rule, there must not be excessive reliance on any particular category of asset, investment market, or investment.

At least 30% of total assets covering technical provisions must be placed in low-risk investments such as government bonds, mortgage credit bonds, and property (the value of which is independent of any special business use).

Correspondingly, a maximum of 70% of total assets covering technical provisions may be invested in equity and a maximum of 10% may be invested in shares issued by residents outside OECD countries and Saudi-Arabia (Zone A countries) and listed on a stock exchange outside these countries.

Investment in a single company must not exceed 2% of all assets covering technical provisions; 3% if the company's capital exceeds DKK 250 million and it is established and listed in a Zone A country stock exchange.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Industry-wide pension plans: Waiting periods and minimum and maximum ages for joining the plan do not usually apply.

Company pension plans: Membership is usually subject to a minimum service period of 6 to 12 months. Plans usually provide for minimum and maximum ages for joining the plan, the former being usually between ages 25 and 30 and the latter being usually between ages 55 and 60.

Vesting rules

All plans: In the case of plans implemented through pension funds, employee contributions vest immediately. Employer contributions vest after a maximum of 5 years, but immediate vesting is common practice.

In the case of insured plans, the sponsoring employer may surrender the insurance policy if an employee is younger than age 30 and terminates employment before completing 5 years of plan membership. Other categories of employees have immediately vested rights in the policy.

Preservation, portability, transferability

Industry-wide pension plans: Full portability if covered by the same plan after changing employers.

If no longer covered by the same plan, employees may opt for their rights to be deferred or to transfer their rights to the new employer's pension plan, which must accept the transfer-in.

Company pension plans: In the case of plans implemented through company pension funds, employees may opt for their rights to be deferred or to transfer their rights to the new employer's pension plan, which must accept the transfer-in.

In the case of insured company plans, the option to transfer accrued rights depends on the former employer's consent, which is usually granted.

Retirement benefits

Benefit qualifying conditions

All plans: Tax rules prescribe a minimum retirement age of age 60. An average plan provides for a retirement age of between ages 65 and 67. Most plans with a retirement age above age 65 are currently reducing the age to age 65 in line with the decline in the retirement age under the social security schemes.

Early retirement is usually allowed from age 60.

There are no legal rules concerning the deferral of annuities, but lump-sum benefits must not be deferred after age 70.

Benefit structure / formula

All plans: Defined contribution or defined benefit. (Almost all plans are defined contribution.)

Benefits may be paid as annuities and/or lump sums. Some plans provide both a lump sum and an annuity and members may - within specified limits - choose the respective proportion of the lump sum and the annuity. A minimum annuity is usually provided and pure lump-sum plans are rare due to tax rules (see section Tax Treatment). Plans are not integrated with the social security schemes.

Defined contribution plans provide at least a minimum old-age annuity based on contributions paid and a minimum interest rate.

Annuities are paid by the pension fund or the life insurance company that administers the plan. Unisex mortality tables must be used for all members affiliated after 30 June 1999.

Benefit adjustment

All plans: No legal rules.

Benefit adjustments are uncommon, especially in the case of defined contribution plans. Some defined benefit plans adjust benefits in line with the inflation rate.

Survivors

All plans: No legal rules.

Most plans provide survivor benefits to the spouse and orphans of deceased members. The same provisions that apply to married couples apply to registered life partnerships. A spouse's benefits are paid from the normal plan retirement age and a temporary supplement is sometimes paid until that age.

Under both defined benefit and defined contribution plans, the spouse's benefit usually equals 60% of the deceased member's retirement annuity. The orphan's benefit usually equals 10% of the deceased member's retirement annuity. Under defined contribution plans, the benefit may be paid as a lump sum. The temporary supplement is calculated based on the deceased member's projected retirement annuity.

Recently established industry-wide pension plans usually provide a limited lump-sum benefit. With low contribution rates, these plans have not yet sufficient funds to provide higher benefits.

Disability

All plans: No legal rules.

Most plans provide disability benefits for a 2/3 reduction in earnings capacity. Disability benefits are paid until recovery or the normal retirement age of the plan.

In the case of defined benefit plans, the disability benefit usually equals the projected retirement annuity based on the salary at the onset of disability.

In the case of defined contribution plans, most plans provide between 50% and 80% of the projected

retirement annuity that is calculated on the basis of the entry age in the plan, mortality, expected retirement age, and a minimum interest rate.

Protection of Rights

Protection of Assets

All plans: Plan assets must be held by the pension fund or an insurance company separate from the assets of the sponsoring employer(s).

Financial and Technical Requirements / Reporting

All plans: Pension funds and insurance companies must employ an actuary who is responsible for ensuring compliance with the technical basis. The actuary must prepare and submit to the Danish Financial Supervisory Authority (DFSA) an annual report proving that the technical provisions are covered sufficiently by appropriate assets.

Annual accounts must be prepared that are audited and signed by an auditor.

The annual accounts must be submitted to the DFSA as part of an annual report containing a reliable account of the development of the pension fund's or insurance company's financial activities and circumstances. If the annual accounts are significantly influenced by unusual circumstances, and if the preparation of the annual accounts is subject to considerable uncertainty, these facts must be disclosed in the report. The annual report must also contain information about significant events (if any) after the end of the financial year to which it applies and on the pension fund's or insurance company's anticipated development.

The actuary and the auditor have the right to attend meetings of the pension fund's or insurance company's board of directors.

If the capital base of a pension fund or an insurance company is inadequate, the DFSA must request a plan to restore a sound financial position within a certain period, which must be submitted to the DFSA.

Whistleblowing

All plans: Actuaries must inform the Danish Financial Supervisory Authority if the technical basis of the pension fund or insurance company is not in compliance with legal requirements and/or if the fund's or company's operations are not in accordance with its technical basis.

Standards for service providers

All plans: Auditors must be state chartered accountants.

Actuaries appointed by pension funds and insurance companies must be approved by the DFSA.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All plans: If a pension plan is wound up, the Danish Financial Supervisory Authority takes possession of all assets covering technical provisions and the Minister for Economic Affairs and Industry may appoint administrators to administer the funds received.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There are no legal requirements concerning insolvency insurance and no state guarantee fund exists.

Disclosure of information / Individual action

All plans: Members must upon joining the plan be provided with information on the plan rules and must thereafter be informed annually of their vested rights and projected benefits.

An Insurance Complaints Board established jointly by the insurance industry and the Danish Consumer Council deals with complaints and disputes between plan members and the management of pension funds or insurance companies.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: Contributions to plans to provide an annuity are tax-deductible without ceiling. In plans that provide an annuity and a lump sum, the part of the contribution that provides the lump sum is tax-deductible up to DKK 41,000 per year. Contributions to pure lump-sum plans are fully taxed for those in the top income tax band (income of DKK 338,600 or more a year as of 1 January 2005); for all other persons the maximum tax-deductible annual contribution is limited to DKK 41,000.

Employee contributions are subject to the so-called labour market contribution (paid under the social security scheme to cover unemployment and voluntary early retirement benefits) of 8%.

Taxation of employer contributions

All plans: Contributions to plans to provide an annuity are tax-deductible without ceiling. In plans that provide an annuity and a lump sum, the part of the contribution that provides the lump sum is tax-deductible up to DKK 41,000 per year. Contributions to pure lump-sum plans are fully taxed for those in the top income tax band (income of DKK 338,600 or more a year as of 1 January 2005); for all other persons the maximum tax-deductible annual contribution is limited to DKK 41,000.

Employer contributions are not considered as taxable fringe benefits for employees.

Taxation of investment income

All plans: Taxed at a rate of 15%.

Taxation of benefits

All plans: Annuities are taxed as personal income.

Lump-sum benefits are taxed at a flat rate of 40%.

Regulatory and Supervisory Authorities

Danish Financial Supervisory Authority:
Supervises insurance companies and pension funds.

The Danish Financial Supervisory Authority (DFSA) may disqualify members of the board of directors of a pension fund or insurance company if they lack sufficient experience or if they are deemed not of good character.

The DFSA may under prescribed circumstances issue an order to a pension fund or insurance company to take or cease certain actions (e.g. where the fund or company does not comply with legal requirements), and may withdraw their license if they have not complied with the order within the limits stipulated by the DFSA.

The DFSA is an integrated financial supervisory institution and reports to the Minister for Economic Affairs and Industry.

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Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2004: Retirement Income Act *(Alterseinkünftegesetz - AltEinkG)*; harmonises the taxation of retirement income of employees with and without civil servant status and introduces deferred taxation for all kinds of retirement income.

2002: Act on the Federal Financial Supervisory Authority *(Finanzdienstleistungsaufsichtsgesetz - FinDAG)*; integrates several areas of financial supervision in a single institution and regulates its operations, responsibilities and powers.

2001: Act on the reform of the social security pension scheme and the encouragement of funded old-age provision *(Altervermögensgesetz - AVmG)*; amends numerous regulations of the Occupational Pensions Act, introduces the possibility to establish pension funds *(Pensionsfonds)* and grants the right to employees to request salary deductions to complementary occupational pension plans and implements new taxation rules on retirement income.

1992: Insurance Supervision Act *(Versicherungsaufsichtsgesetz - VAG)*; regulates the establishment and operation of insurance companies, pension institutions and pension funds and implements (together with the Insurance Contract Act) the EU-Directive 2002/83/EC concerning life insurance (while pension institutions are excluded from the Third Life Insurance Directive, they are for prudential reasons and with respect to competition treated in the same way as life insurance companies) and the EU-Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORPs).

1974: Occupational Pensions Act *(Gesetz zur Verbesserung der betrieblichen Altersversorgung - BetrAVG)*; allows five different methods of implementing complementary occupational pension plans; regulates all plans including those established before 1974, vesting, benefit adjustments and preservation, portability and transferability.

Plan Profile

Plan sponsors

Employers, singly or as a group, may on a voluntary basis establish complementary occupational pension plans for their employees.

Plans may be based on an industry-wide collective agreement, an agreement at the company level, an agreement between the employer and the individual employee (integrated or not with the work contract), or a unilateral decision by the employer.

Employees who are covered by the social security pension scheme on a compulsory basis may request their employer to deduct salary up to 4% of the social security contribution ceiling (EUR 63,000 a year) and contribute it to an occupational pension plan to increase their benefits. In the case of salary based on a collective agreement, deductions can only be requested if this is provided for in the collective agreement. The salary deduction can be paid to a pension institution, pension fund or direct insurance policy (see section Types of Plans).

Types of plans

Plan sponsors may choose between five types of plans. These types are institutionally guided by the five methods of implementing complementary occupational pension plans allowed by the Occupational Pensions Act. Many employers combine two or more of these methods.

Book reserve (Direktzusage): Single employers may establish book reserve plans that are implemented through allocating funds to internal reserves of the sponsoring employer.

Book reserve plans are not subject to government supervision. Some protection is, however, provided through statutory insolvency insurance (see section Protection of rights, Bankruptcy: insolvency insurance / compensation fund).

Direct insurance (Direktversicherung): Single employers may establish direct insurance plans that are implemented through insurance policies contracted by the sponsoring employer with a life insurance company on behalf of one or more employees.

The establishment of life insurance companies is subject to the authorization of the Federal Financial Services Supervisory Authority (BaFin).

Pension institutions (Pensionskasse): Employers, singly or as a group, may establish plans implemented through the establishment of, or adherence to, a pension institution.

Pension institutions may be established as either closed pension institutions that are restricted to the plan(s) of one, or a certain defined class of, employer(s), or as open pension institutions that may implement the plan of any employer.

Pension institutions are legally treated as life insurance companies and their establishment is subject to the authorization of BaFin.

Pension funds (Pensionsfonds): Employers, singly or as a group, may establish plans implemented through the establishment of, or adherence to, a pension fund. Pension funds have been an instrument for implementing pension plans since 2002.

Pension funds may be established as either closed pension funds that are restricted to the plan(s) of one, or a certain defined class of, employer(s) or as open pension funds that may implement the plan of any employer.

The major difference between pension institutions and pension funds is that the latter must not promise the amount of benefits or the amount of future contributions to be paid for these benefits in respect of all benefit cases provided by insurance-type guarantees. Pension funds are almost not constrained by quantitative investment restrictions (see section Asset management) but statutory insolvency insurance is obligatory (see section Protection of rights, Bankruptcy: insolvency insurance / compensation fund). Pension funds are not legally treated as life insurance companies but as institutions with close links to the insurance business, and numerous standards governing life insurance companies also apply to them.

The establishment of pension funds is subject to the authorization of BaFin.

Support funds (Unterstützungskasse): Employers, singly or as a group, may establish plans implemented through the establishment of support funds.

While the definition of support fund has traditionally included the fact that members do not have a legal right to benefits of a certain amount, rights can now be based on labour law. There are no legal requirements for support funds to be authorized and they are not subject to government supervision. Some protection is, however, provided through statutory insolvency insurance (see section Protection of rights, Bankruptcy: insolvency insurance / compensation fund).

All plans: The establishment of occupational pension plans and the plans themselves are not subject to authorization.

All plans may, and usually do, provide retirement, disability and survivor benefits.

All plans must be defined benefit.

Participation can be voluntary or compulsory for covered employees.

Institutional Framework

Book reserve and direct insurance: The sponsoring employer or the insurance company respectively, manages the contribution and benefit administration.

Pension institutions and pension funds: Pension institutions and pension funds are independent legal entities and must be established as joint-stock companies or mutual insurance associations (pension institutions) / mutual pension fund associations (pension funds).

The pension institution or pension fund manages the contribution and benefit administration.

Support funds: Support funds are independent legal entities usually established as associations or limited companies.

The support fund manages the contribution and benefit administration.

All plans: There are no legal requirements for the representation of plan members or beneficiaries in the administration of pension plans.

Persons managing life insurance companies, pension institutions or pension funds must fulfil certain requirements concerning fitness and propriety.

Coverage

All plans: Public- and private-sector employees except civil servants that are not covered by a complementary pension plan.

Certain special regulations apply to public-sector plans and these regulations are not covered further in the following sections.

Constitutional provisions and labour law prohibit discrimination between men and women and between full-time and part-time employees.

The self-employed are covered under very special circumstances.

Financing / Investment

Sources of funds

Employee contributions

All plans: Employees do not usually contribute.

However, employees covered by the social security pension scheme on a compulsory basis may request salary deduction of up to 4% of the social security contribution ceiling (EUR 63,000 a year) and contribute it to an occupational pension plan.

If employees request salary deduction, they must contribute at least EUR 183.75 a year.

Employer contributions

All plans: Employer contributions depend on plan rules.

The tax deductible allocation to the book reserve is restricted (see section Protection of rights, Financial and technical requirements).

If an employer contributes to support funds, special taxation rules have to be considered.

Other sources of funds

All plans: None.

Methods of financing

Book reserve: Special system of funding (internal accounting for pension liabilities).

All other plans: Funded.

Asset management

Book reserve: Plan assets are part of the sponsoring employer's balance sheet and no investment restrictions apply.

Direct insurance and pension institutions: Assets are managed by a life insurance company or by the pension institution.

Of total assets invested:

- A maximum of 50% may be in bonds;
- A maximum of 50% may be in mortgage or other loans;
- A maximum of 50% may be in bank deposits;
- A maximum of 35% may be in quoted shares;
- A maximum of 35% may be in investment funds;
- A maximum of 25% may be in property located in EU member countries;
- A maximum of 10% may be in unquoted shares;
- A maximum of 10% may be in shares of companies based outside EU member countries;
- A maximum of 7.5% may be in asset backed securities, credit linked notes and similar assets;
- A maximum of 5% may be in hedge funds;
- A maximum of 10% may be in bonds issued outside EU member countries;
- A maximum of 5% may be in securities issued by

a single issuer (except for state bonds and bank deposits).

Additionally, in the case of pension institutions, a maximum of 5% of total assets may be invested in the sponsoring employer in the case of single-employer plans and a maximum of 15% of total assets may be invested in the sponsoring employers in the case of multi-employer plans.

Pension funds: Assets are managed by the pension fund.

There are almost no quantitative investment restrictions. However, a maximum of 5% of total assets may be invested in the sponsoring employer in the case of single-employer plans and a maximum of 15% of total assets may be invested in the sponsoring employers in the case of multi-employer plans.

Support funds: Assets are managed by the support fund.

There are no quantitative investment restrictions.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Waiting periods and minimum / maximum age conditions for participation in a plan depend on plan rules.

Vesting rules

All plans: Employee contributions vest immediately.

Employer contributions vest if the plan member reaches age 30 and has at least 5 years of plan membership.

Preservation, portability, transferability

All plans: Upon termination of employment before retirement, the member's accrued benefits or accumulated capital may be preserved in the plan or transferred to the plan of the new employer.

Transfers of vested benefit entitlements and current benefits are subject to the following conditions:

- Following termination of employment and on agreement between the previous and new employers as well as the employee:

1) The pension commitment under the book reserve scheme may be assumed by the new employer, or
2) The value of the vested benefit entitlement (transfer value) may be transferred to the new employer provided that the latter makes a commitment of equal value; the rules on deferred compensation apply accordingly to the new entitlement;

- The employee may, within 1 year of the termination of employment, demand that the previous employer transfers the transfer value to the new employer, if

1) The occupational pension scheme was implemented through a pension fund, a pension institution or direct insurance, and
2) The transfer value does not exceed the social security contribution ceiling (EUR 63,000 a year).

The new employer shall make a commitment equivalent to the transfer value and implement this through a pension fund, a pension institution or direct insurance. The rules concerning deferred compensation apply accordingly to the new entitlement.

If operations cease and the company is liquidated, the commitment may be assumed under special circumstances by a pension institution or a life insurance company without the approval of the employee or beneficiary.

The previous employer's commitment expires with full transfer of the vested benefit entitlement.

The accrued rights must be calculated pro rata based on the ratio of the accrued service period to the total potential service period until the plan retirement age.

If requested by the sponsoring employer, the cash value of an accrued pension benefit of less than EUR 24.50 a month may be paid to the member as a lump sum upon termination of employment.

Retirement benefits

Benefit qualifying conditions

All plans: The retirement age depends on plan rules and is usually 65 for both men and women. Plans must allow for early retirement if a member is eligible under the social security pension scheme for early retirement benefits before age 65.

Benefit structure / formula

All plans: Defined benefit.

No legal rules concerning integration with the social security scheme except that increases in social security benefits after retirement must not decrease the benefits payable under the occupational plan.

No legal rules concerning benefit structure and formula and both depend on plan rules.

Benefit adjustment

All plans: Benefits financed through salary deductions (i.e. employee contributions) must be increased by at least 1% a year except for pension plans implemented through direct insurance or pension institutions, where all surpluses earned on assets earmarked to pay benefits to current retirees are used to increase benefits.

For benefits not financed through salary deductions, there is no requirement for adjustments to be made in the case of defined benefit plans that are called *Beitragszusage mit Mindestleistung* (in which the accumulated capital at retirement must equal at least the contributions made minus risk contribution, if applicable).

In the case of remaining defined benefit plans sponsoring employers must consider benefit adjustments every 3 years based on the interests of retirees and their own economic situation, except where:

- Plans provide for automatic annual benefit increases of 1%; or
- In the case of plans implemented through direct insurance or pension institutions, all surpluses earned on assets earmarked to pay benefits to current retirees are used to increase benefits.

The obligation to consider benefit adjustments is met if benefits are adjusted at a rate not less than the increase in the consumer price index or the net increase in wages of employees whose type of employment is comparable to the former occupation of the retirees. Employers who are unable to increase benefits at these rates for economic reasons are exempt from the obligation to do so.

Survivors

All plans: Coverage of survivor benefits is voluntary and is usually provided.

No legal rules concerning benefit qualifying conditions and/or benefit structure except that discrimination between widows and widowers is prohibited by labour law.

Disability

All plans: Coverage of disability benefits is voluntary and is usually provided.

The benefit qualifying conditions must be the same as under the social security scheme.

No legal rules concerning benefit structure.

Protection of Rights

Protection of Assets

Book reserve: No legal rules.

Plan assets are part of the sponsoring employer's assets.

All other plans: The institution through which the plan is implemented must hold the plan assets separate from the assets of the sponsoring employer(s).

Financial and Technical Requirements / Reporting

Book reserve: The valuation method and assumptions are regulated only for tax purposes. The interest rate applied is 6%.

Direct insurance, pension institutions and pension funds: An actuary must be appointed to review the financial situation of the life insurance company, the pension institution or the pension fund.

A solvency margin is required which must be covered by the respective entity's own funds. If the funds are insufficient, the Federal Financial Services Supervisory Authority (BaFin) may request that a plan to restore a good financial position be submitted. If the funds are less than one-third of the solvency margin, urgent measures to redress the situation must be proposed to BaFin.

Life insurance companies, pension institutions and pension funds must regularly provide BaFin with detailed information on the allocation of assets covering technical provisions together with information on the basic risk calculation and valuation methods. BaFin must also be informed of any major changes in the asset allocation.

Financial statements must be prepared annually and audited by an auditor. The financial statements and the auditor's report must be submitted to BaFin.

There are a number of forms and templates for the reports that life insurance companies, pension institutions and pension funds must provide to BaFin.

Support funds: No legal rules.

Whistleblowing

Book reserve and support funds: No legal rules.

Direct insurance, pension institutions and pension funds: If actuaries find that they may not be able to confirm an adequate financial situation, they must inform the management of the life insurance company, pension institution or pension fund. If the management does not act to alleviate the deficiency, the actuary must inform the Federal Financial Services Supervisory Authority (BaFin) immediately. If they find facts that could put at risk the continuity of the life assurance undertaking, pension institution or pension fund, or significantly affects its development, they must immediately inform the management of the life insurance company, pension institution or pension fund as well as BaFin.

Standards for service providers

Book reserve and support funds: No legal rules.

Direct insurance, pension institutions and pension funds: Actuaries must be reliable and sufficiently qualified. The latter is defined as the actuarial knowledge and professional experience assumed to have been gained by working as an actuary for at least 3 years.

The Federal Financial Services Supervisory Authority (BaFin) must be informed of the appointment of the actuary and auditor and can require that another actuary or auditor be appointed. If BaFin does not accept the second proposal either, it appoints the actuary or auditor.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

Book reserve and support funds: No legal rules.

Direct insurance, pension institutions and pension funds: Every change in the structure of life insurance companies, pension institutions or pension funds requires the authorization of the Federal Financial Services Supervisory Authority (BaFin).

Life insurance companies, pension institutions and pension funds must be wound up if BaFin withdraws their authorization. BaFin may do so if:

- They no longer comply with the requirements for issuing the authorization;
- They seriously violate legal requirements;
- Irregularities exist that imply that members' rights are endangered if operations continue;
- Plans to restore a satisfactory financial situation (see section Protection of Rights, Financial and technical requirements / reporting) fail.

Bankruptcy: Insolvency Insurance / Compensation Fund

Book reserve, pension funds and support funds: A statutory insolvency insurance system administered by a mutual insurance association called the pension

guarantee fund *(Pensions-Sicherungs-Verein aG - PSVaG)* protects current and future beneficiaries in the event of employer insolvency.

Sponsoring employers must make sufficient contributions to finance the PSVaG on a pay-as-you-go basis. The annual contribution is based on the ratio of the capital required in a year by the PSVaG to the total amount of employers' pension liabilities, and is currently 0.49%.

The insurance covers pensions in payment and vested rights. The PSVaG is not required to pay monthly pensions exceeding EUR 7,350. Certain rights (such as benefit increases granted in the 2 years immediately prior to insolvency) are excluded from the guarantee insurance coverage if it could be considered that the aim of granting those rights was to involve the PSVaG.

Direct insurance and pension institutions: Pension institutions and, in general, also direct insurance, do not fall under the scope of the pension guarantee fund. However, direct insurance with an insurance company is covered by the insolvency insurance program for life insurers *(Protektor)* while pension institutions may be covered by this program on a voluntary basis. *Protektor* protects the claims of current and future beneficiaries against the insolvency of the insurance company or pension institution.

All plans: Liabilities may be reinsured.

Disclosure of information / Individual action

All plans: No legal rules for procedures to settle conflicts between plan members and institutions involved in the plan administration.

Direct insurance, pension institutions and pension funds: At the beginning of membership, direct insurance, pension institutions and pension funds must provide the member with detailed information on:

- Name, address, legal form and domicile of the life insurance company / pension institution / pension fund and any branch through which the contract is to be concluded;
- Details of the term of the contract including the tariffs, insofar as they apply, and the information on the law the contract applies to;
- The term;
- The taxation rules applicable to the type of retirement provision;
- The financial, actuarial and other risks of the pension scheme as well as the type and the distribution of these risks;
- During the term, change of name, address, legal form and domicile of the life insurance company / pension institution / pension fund and any branch through which the contract is to be concluded.

They must also annually provide information to members on:

- The target level of the retirement benefit;
- The available types of investment and the structure of the investment portfolio as well as information on the potential risks, the costs of asset management and other costs where the member bears the investment risk;
- A benefit statement and information concerning the extent to which ethical, social or ecological criteria have been taken into account in investment decisions;
- Brief particulars of the situation of the life insurance company / pension institution / pension fund as well as the current level of members' accrued benefits.

On request, they must provide information on:

- The annual accounts and the annual report;
- The statement of investment policy principles;
- The level of benefits in case of cessation of employment;
- The arrangement relating to the transfer of pension rights to another direct insurance / pension institution / pension fund in the event of termination of the employment relationship.

All other plans: No legal rules for information to be disclosed to plan members.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

Book reserve and support funds: Tax-exempt.

Direct insurance, pension institutions and pension funds: Tax-exempt and exemption from social security contributions up to 4% a year of the social security contribution ceiling (EUR 63,000 a year) is possible. The social security exemption is only available until 2008. There is an additional tax exemption of EUR 1,800 a year for new plan members since 2005.

As an alternative, plan members may opt for a special type of fiscal support *(Riester Förderung)* that is granted either as a subsidy or, in some cases, as a tax-deductible special expense allowance. The amount of the subsidy depends on whether the member has children or not. In order to receive the support, employee contributions must be made out of salary on which tax and social security contributions have been paid.

It is possible to get tax exemption for one contribution and the *Riester Förderung* for another contribution (but not both for the same contribution).

In the case of direct insurance and pension institutions, for members who joined the plan before 2005 total contributions (including employer contributions) up to EUR 1,752 are taxed at a flat rate of 20% (plus solidarity and church tax) if this rate is more beneficial than the employee's personal income tax rate.

Taxation of employer contributions

Book reserve: Tax-deductible, since allocations to internal reserves reduce taxable profits.

Employer contributions are not taxable fringe benefits for employees.

Direct insurance, pension institutions and pension funds: Tax-deductible as company expenses.

Employer contributions are taxable fringe benefits for employees.

Support funds: Tax-deductible up to certain limits depending on the type and average level of benefits.

Employer contributions are not taxable fringe benefits for employees.

Taxation of investment income

Book reserve: Taxed as company income.

Direct insurance, pension institutions and pension funds: Tax-exempt.

Support funds: Tax-exempt (up to a certain rate of return).

Taxation of benefits

All plans: Taxed.

In the case of direct insurance and pension institutions, where contributions have been taxed at a flat rate of 20% (see section Tax Treatment, Taxation of employee contributions), only the part of benefits financed by interest on the contributions made is taxed. The assumed interest part depends on the member's retirement age and is 27% of the pension in the case of retirement at age 65.

Regulatory and Supervisory Authorities

Financial Services Supervisory Authority: Supervises life insurance companies, pension institutions and pension funds.

With regard to supervised entities, the Financial Services Supervisory Authority (BaFin) may:

- Make any requests to their management that it deems appropriate to alleviate deficiencies;
- Request the their management to submit any documents or information with regard to their operations;
- Appoint a person to which the management responsibilities are transferred for a certain period;
- Request a solvency plan to be submitted if their capital is lower than the required solvency margin;
- Carry out on-site inspections;
- Withdraw their authorization.

BaFin is an integrated financial supervisory institution under the supervision of the Ministry of Finance and is mainly financed by levies on supervised entities.

Financial Services Supervisory Authority
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Tel.: (+49) 228 4108 0
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Ireland

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2005: Social Welfare and Pensions Act; provides for amendments to the Pensions Act of 1990 that are necessary to provide for the transposition of EC Council Directive 2003/41/EC on the activities and supervision of Institutions for Occupational Retirement Provision (IORPS Directive); also provides additional amendments to the Pensions Act of 1990 to implement recommendations from the Pensions Board to the Minister for Social and Family Affairs following a review of the Funding Standard.

2004: Social Welfare (Miscellaneous Provisions) Act; amends the Pensions Act of 1990 to bring pensions legislation into line with existing equality legislation in Ireland, as well as various EU Directives; provides for equal pension treatment and prohibits discrimination.

2002: Pensions (Amendment) Act; amends the Pensions Act of 1990 by introducing a framework for Personal Retirement Savings Accounts (PRSAs) and their associated tax relief and arrangements; establishes a Pensions Ombudsman and permits different provisions to come into force on different dates.

2001: Protection of Employees (Part-Time Work) Act; stipulates that if an employer provides a pension plan for its full-time employees, then access to the plan (or a no less favourable alternative) must also be possible for comparable part-time workers.

1997: Taxes Consolidation Act; regulates the tax treatment of complementary occupational pension plans (referred to in the Act as Retirement Benefit Schemes).

1996: Pensions (Amendment) Act; amends the Pensions Act of 1990 by adding provisions for compulsory and voluntary reporting to the Pensions Board.

1996/1995: Family Law Acts; The Family Law Act, 1995, and the Family Law (Divorce) Act, 1996, require that pension rights be taken into account by the Court for the purposes of reaching financial settlement where the parties apply for a judicial separation or divorce; impose a wide range of obligations on trustees, including disclosure or information pre- and post- the making of pension adjustment orders (PAOs), calculation of benefits, and giving effect to PAOs including the payments of benefits to nonmember spouses.

1990: Pensions Act; contains provisions for the proper administration of pension plans and protection of members' pension rights, provides for preservation and transfer of rights, a funding standard and disclosure of information. The Pensions Act of 1990, as amended by subsequent legislation, is known collectively as the Pensions Act 1990-2005.

1984: Protection of Employees' (Employer's Insolvency) Act; makes provision for the payment of unpaid contributions to a pension plan by a statutory fund where the plan has insufficient assets to meet its benefit commitments in winding-up.

1958: Trustee (Authorized Investments) Act; gives trustees certain (rather limited) powers of investment.

1893: Trustee Act; deals with the appointment and removal of trustees and gives them certain powers.

Many provisions of the two Trustee Acts only apply if they are not excluded or changed by the terms of the trust, so the Acts must be read together with the trust documents.

Case Law; the concept of the trust was first developed in the courts and it has been adapted and extended over time through further court decisions. The body of court decisions on trusts is the first (and largest) source of law affecting trustees. Many of the rules laid down by the courts can be changed by the express terms of a particular trust, but unless this is done these general rules will apply.

Plan Profile

Plan sponsors

Employers, singly or as a group, may on a voluntary basis establish complementary occupational pension plans for their employees.

A new type of personal pension plan, the Personal Retirement Savings Account (PRSA) was introduced in the Pensions (Amendment) Act 2002. From 15 September 2003, all employers are required to enter into a contract with a PRSA provider to allow all excluded employees access to at least one standard PRSA (see section Types of Plans). Excluded employees are defined as:

- Employees of an employer who does not sponsor a complementary occupational pension plan;
- Employees who are covered by an occupational plan for death in service benefits only;
- Employees who are ineligible to join the occupational pension plan sponsored by their employer and who will not, under the plan rules, become eligible to join the plan for retirement benefits within 6 months of the date they commenced employment;
- Employees who do not have access to Additional Voluntary Contributions (AVCs) through their occupational pension plan.

Individuals younger than age 75 (including the employed, self-employed, home-makers, carers, unemployed, or any other category of person) may contribute voluntarily to a PRSA. Employees may contribute to both a PRSA and an occupational pension plan if the occupational plan rules do not allow for the payment of AVCs or they are covered for death in service benefits only.

The self-employed and employees whose earnings are not covered by their employer's occupational pension plan or are only covered for death in service benefits may voluntarily establish a personal pension plan known as a Retirement Annuity Contract (RAC). No further information on RACs is included in the following sections.

Types of plans

Occupational pension plans: The Taxes Consolidation Act of 1997 regulates the tax treatment of complementary occupational pension plans (referred to in the Act as Retirement Benefit Schemes). Under the Act, plans can mainly be categorized as follows:

Approved plans: An occupational pension plan that is approved by the Revenue Commissioners as providing benefits within the Revenue limits. However, in order to gain all the tax advantages available, an occupational pension plan must be exempt approved.

Exempt approved plans: An approved occupational pension plan that has been set up under an irrevocable trust. The tax advantages of an exempt approved plan include tax relief on employer and employee contributions made to the plan, no benefit-in-kind for the employee in respect of any employer contributions to the plan, and tax-free investment returns.

Each occupational pension plan must be registered with the Pensions Board - the supervisory authority monitoring occupational plans - and must be approved by the Revenue Commissioners in order to receive favourable tax treatment.

As virtually all plans are exempt approved, only the regulation which governs those plans and only their customary benefit structure are considered in the following sections.

Occupational pension plans may allow employees to improve their pension cover by making additional voluntary contributions (AVCs). Full tax relief is allowed to the maximum limits (see section Tax Treatment) and provided the topped-up benefits do not exceed a maximum allowed under Revenue Commissioners rules.

Personal Retirement Savings Accounts: A Personal Retirement Savings Account (PRSA) is a low cost, easy access, defined contribution arrangement designed to allow people to save for retirement in a flexible manner.

There are two types of PRSA: Standard and

nonStandard PRSA. The main differences between both types are the charges and investment options. Members of a Standard PRSA:

- Cannot be charged more than 5% on the contributions they pay and 1% a year on the managed funds;
- Can only invest in pooled funds, except for temporary cash holdings;
- Do not have to buy another product, such as life assurance, when they are applying for their Standard PRSA.

In a nonStandard PRSA there is no limit on charges and members can invest in a range of funds including, but not restricted to, pooled funds.

PRSA providers are authorized investment business firms, insurance companies, and credit institutions. All PRSA products must be approved jointly by the Pensions Board and the Revenue Commissioners.

A PRSA is a contract between an individual and the provider. However, all employers must enter into a contract with a Standard PRSA provider to allow excluded employees (see section Plan Sponsor) access to a Standard PRSA. Employers must also:

- Notify excluded employees that they have the right to contribute to a Standard PRSA;
- Allow the PRSA provider or intermediary reasonable access to excluded employees at their workplace;
- Allow reasonable paid leave of absence to enable excluded employees to set up a Standard PRSA, subject to work requirements;
- Make deductions from payroll at their employees' request.

Employees need not use the PRSA provider with whom their employer has established a contract but may go to any PRSA provider. In this case the employer is not obliged to deduct the employees' contributions from their salary and pay them to the PRSA provider. Employees would in this case make contributions directly to the chosen provider.

It is not compulsory for employers to contribute to their employees' PRSA. If they do contribute, the employer contributions are treated as a benefit-in-kind for the employee for tax purposes. No further information is provided on PRSAs in the following sections, except where they interact with occupational pension plans.

Institutional Framework

Exempt approved plans: Plans must be established under an irrevocable trust and must be registered with the Pensions Board (PB).

Trustees are responsible for ensuring that the plan is properly administered and that legal requirements are fully complied with. The main legally defined duties and responsibilities of trustees of pension plans are to:

- Register the plan with the Board;
- Ensure the plan is adequately funded;
- Ensure contributions are remitted;
- Ensure contributions are invested;
- Keep membership and financial records;
- Disclose information to members;
- Ensure equal pension treatment;
- Apply the resources of the plan on wind-up;
- Ensure that the contributions are duly paid;
- Properly invest the plan assets;
- Pay benefits as they become due;
- Arrange for members' pension rights to be secured if a decision is taken to wind-up a plan, and to ensure that it is wound-up without undue delay.

Qualified members of a relevant plan are eligible to participate in the selection of trustees, subject to certain requirements, if this is requested by:

- One or several trade unions which represent at least 50% of active members; or
- At least 15% of the qualified members; or
- The sponsoring employer(s).

A relevant plan is one which has:

- 50 or more qualified members; or
- 12 or more qualified members if the plan is a directly invested plan (i.e. a plan that has assets other than insurance policies, contracts of assurance, managed funds, unit trusts and, cash deposits).

Qualified members are defined as:

- Active members who are current employees accruing retirement benefits under the plan;
- Pensioner members who are former employees receiving pensions under the plan, including those for whom an annuity has been purchased.

Employers must determine how many persons they nominate for appointment as trustees and the members then elect an equivalent number.

Where a plan is not a relevant plan or where the selection of trustees by members has not been requested, the appointment of trustees is governed by the provisions of the trust deed and the plan rules and the power to appoint trustees is usually vested in the sponsoring employer(s).

The Pensions Board may ask the High Court to remove trustees if they have failed to carry out their duties properly.

Trustees may manage the contribution and benefit administration themselves or contract the management to external service providers. In practice many of the functions of pension administration, such as the payment of benefits, financial management, accounting etc., are undertaken on behalf of the trustees by a plan administrator (that could be a sponsoring employer, a pensions consultant, a professional administrator, or a life insurance company).

Many smaller plans are insured plans, which means that a life insurance company provides an overall service to the trustees. In such instances the plan assets are the proceeds of the insurance policy issued by the life insurance company.

Coverage

Exempt approved plans: Plans cover private- and public-sector employees.

While plans established by private-sector employers and commercial semi-state bodies are funded, plans established by noncommercial public-sector institutions (e.g. plans for the civil service, local government, education etc.) are financed on a pay-as-you-go basis. The Pensions Act of 1990 governs both private- and public-sector plans.

Plans must not discriminate on grounds of gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the traveller community, irrespective of any plan rules. This applies in relation to the rules governing such matters as:

- Access to the plan;
- Contribution arrangements;
- Entitlements to and calculations of benefits;
- Retirement ages; and
- Survivor benefits.

In case an employer provides a pension plan for its full-time employees, then access to the plan (or a no less favourable alternative) must also be possible for comparable part-time workers unless exclusion can be justified on objective grounds or if they work less than 20% of the normal hours worked by full-time workers.

It is also usual to provide maximum (often age 55) and minimum (age 18 or age 21) ages for joining the plan.

Self-employed persons are not covered and may make provisions for their retirement through personal pension arrangements such as Personal Retirement Savings Accounts (PRSAs) or Retirement Annuity Contracts (RACs) (see section Plan Sponsors).

Plans for the noncommercial public-sector and personal pension arrangements are not covered in the following sections.

Financing / Investment

Sources of funds

Employee contributions

Exempt approved plans: Employee contributions are limited by upper limits on the tax-exemption of contributions (see section Tax Treatment).

Defined benefit plans: Most plans are contributory. The contribution rate depends on plan rules.

Defined contribution plans: Contributory with employee contributions usually equal to 50% of total

contributions (i.e. the sum of employee and employer contributions). Total contributions are usually equal to between 5% and 10% of pensionable salary.

Employer contributions

Exempt approved plans: Employers must make a meaningful contribution to the plan.

Defined benefit plans: The contribution rate depends on plan rules.

Defined contribution plans: Employer contributions are usually equal to 50% of total contributions (i.e. the sum of employee and employer contributions). Total contributions are usually equal to between 5% and 10% of pensionable salary.

Other sources of funds

Exempt approved plans: None.

Methods of financing

Exempt approved plans: Funded.

Asset management

Exempt approved plans: Trustees may manage the plan assets or contract the asset management to an insurance company, bank, or asset manager.

Plan assets must be invested in accordance with the prudent person principle (requirement to invest assets with the care, diligence, and skill that a prudent person in business would exercise in managing the affairs of others).

The trustees must inform members of the plan if more than 5% of total assets are invested in:

- The business of a sponsoring employer (self-investment);
- One undertaking or specified type of asset (concentration of investment).

Defined benefit plans: The calculation of the plan assets for the purposes of meeting the funding standard (see section Financial and Technical Requirements/Reporting, Protection of Rights) must exclude self-investment or concentration of investment exceeding a prescribed percentage of total assets.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Exempt approved plans: No legal rules.

Waiting periods vary from between 1 to 5 years. It is also usual to provide maximum (often age 55) and minimum (age 18 or age 21) ages for joining the plan.

Vesting rules

Exempt approved plans: All employee and employer contributions must vest after 2 years of plan membership. After this period, pension rights including any rights transferred from a previous pension plan, vest immediately.

If employees terminate their employment before completing the 2 years of membership, they are entitled to a refund of their own contributions. Plan rules may provide for interest to be payable on these contributions. The refund is liable to income tax at a fixed rate of 25%.

Preservation, portability, transferability

Exempt approved plans: On terminating employment before retirement, employees may preserve their accrued benefits (i.e. their vested rights) or opt to transfer them to:

- Another funded plan of which they are, or are becoming, a member; or
- A Revenue Commissioners approved policy or contract (buy-out bond that is a single premium pension plan effected by the trustees of a plan in the name of a member who is leaving the plan). The benefits secured by these policies or contracts are normally expressed as a capital sum payable at retirement to purchase an annuity; or
- An unfunded (public-sector) plan of which they are, or are becoming, a member and the trustees of which are willing to accept the transfer; or
- A Personal Retirement Savings Account, subject to certain Revenue Commissioners conditions.

A member may ask for a transfer payment within 2 years of the termination of employment, which must then be accepted by the pension plan of the new employer.

In order to avoid administrative costs, trustees may make a transfer payment to an insurance policy without the member's consent if the value of the transfer payment is less than a certain amount (EUR 10,000 in 2006).

The calculation of the preserved benefits depends on whether the plan is defined benefit or defined contribution (see below).

Defined benefit plans: A member's preserved benefit is calculated on the basis of uniform accrual, which means that retirement benefits are assumed to accrue evenly over the member's entire reckonable service period.

The member's preserved benefit may consist of a number of separate parts:

- The basic preserved benefit which applies where the member has plan membership after 1 January 1991;
- The additional preserved benefit which applies where the member has plan membership prior to 1 January 1991 (or where the plan rules give an entitlement to a benefit on leaving service which is greater than the basic preserved benefit). This additional preserved benefit only applies where employment is terminated after 1 June 2002;
- Preserved benefits in respect of all of the member's additional voluntary contributions or arising from a past transfer-in of accrued rights from another plan.

The basic preserved benefits are calculated by multiplying the amount of retirement benefit accrued (excluding benefits secured by additional voluntary contributions or by transfers-in) at the date of termination of the member's relevant employment with the period of reckonable service completed after 1 January 1991, divided by the period of reckonable service which the member would have completed if in employment until the normal pensionable age (including any reckonable service prior to 1 January 1991).

The additional preserved benefits are calculated similarly except that the period of reckonable service completed before 1 January 1991 is considered and not the period completed after that date.

The total preserved benefit must be at least equal in value to the total contributions paid by the plan member, together with any interest which is payable under the plan rules on refunds of contributions.

Preserved benefits are revalued at the end of every year (starting with the calendar year 1996 or, if later, the year in which the member's employment terminated, and ceasing with the calendar year before the benefits become payable). The rate of revaluation for a full year is either 4% or the increase in the Consumer Price Index if less. Where the period is less than a year the rate of revaluation is reduced pro rata.

Defined contribution plans: The value of the preserved benefit must be equal to the accumulated value of the contributions (including additional voluntary contributions) paid by, or in respect of, the member for the purposes of retirement benefits. Where employment was terminated on or before 1 June 2002 only contributions made after 1 January 1991 are included.

The accumulated value of contributions is the realizable value of the investments secured by these contributions less any expenses authorized by the plan rules.

Retirement benefits

Benefit qualifying conditions

Exempt approved plans: An average plan provides for a retirement age of 65 (men and women).

In defined benefit plans members may be able to take an actuarially reduced early retirement pension from age 50 with the employer's consent. Early retirement due to ill health is allowed at any age.

Deferred retirement is usually possible and increments are paid.

Benefit structure / formula

Exempt approved plans: Either defined benefit or defined contribution. Defined contribution plans have become increasingly popular in recent years, in particular amongst multinational and smaller local companies. Defined benefit plans still account for the greater proportion of plan members.

A part of the accrued rights can be taken as a lump sum at retirement, but commutation is limited to 3/80 of final salary (see below) for each year of service up to a maximum of 40 years (i.e. maximum of 1.5 times the final annual salary). Commutation may be accelerated for employees with more than 8 years of service with the same employer in order to achieve the maximum commutation value (i.e. 120/80 or 1.5 times the final annual salary) with only 20 years of service.

Under defined benefit plans, the trustees decide whether to secure benefits by buying an annuity (unless the plan is an insured plan in which case annuities are always purchased). In some large defined benefit plans annuities are not bought. Annuities are generally bought under defined contribution plans. Annuities can only be provided by licensed life insurance companies. The conditions of an annuity (e.g. minimum guaranteed period, continued payment to dependent survivors) bought by the trustees must reflect the plan rules and members of defined contribution plans usually have a choice concerning the features to be included.

Defined benefit plans: A pension may be provided at the member's normal pensionable age equal to 1/60 of pensionable salary for each year of completed service, subject to a maximum pension of 40/60 of pensionable salary.

Pensionable salary is defined as the final salary at a particular date that may be calculated as:

- The basic salary over any 12 month period in the 5 years preceding the date of retirement, plus the average of any fluctuating income (e.g. bonuses) over 3 or more consecutive years ending on the last day used for the calculation of final basic salary; or
- The average of the total remuneration for any 3 or more consecutive years ending not earlier than 10 years before the date of retirement; or
- The basic salary at the date of retirement or at any date within the year ending on that date, plus the average of any fluctuating income over 3 or more consecutive years before the date of retirement.

Most defined benefit plans are integrated with the social security scheme either by salary offset or by benefit offset. In the case of salary offset, pensionable salary is reduced by the part of salary that is taken into account by the social security pension. In the case of benefit offset, the pension based on full pensionable salary is first calculated and the social security pension entitlement is then deducted.

It is prohibited to integrate increases in social security pensions in payment after members retire.

Defined contribution plans: Defined contribution plans are usually based on a total contribution rate of between 5% and 10% of pensionable salary. Plans are not explicitly integrated with the social security scheme, but most plans take account of the fact that social security pensions will be paid when deciding the contribution rate for the occupational plan.

Benefit adjustment

Exempt approved plans: Pensions in payment are increased in approximately 30% of all plans.

The Pensions (Amendment) Act 2002 introduced provisions regarding indexation of pensions in payment. These provisions require that the possibility of indexation be examined and considered in defined benefit plans which do not provide for annual increases of pensions in payment of at least equal to either 4% or the change in the Consumer Price Index if less, or 3%.

Trustees will be required to set out in their annual plan report the details of the process of examining and considering indexation, a report prepared by them on indexation, and the sponsoring employer's response to the report.

Survivors

Exempt approved plans: Survivor benefits are generally provided on the death of a member in

service. Many plans also provide a benefit on the death of a pensioner after retirement, and generally also on the death before retirement of a member entitled to preserved benefits.

The form and amounts of benefits which may be paid under different circumstances depend on the trust deed and plan rules and are limited by the Revenue Commissioners.

Death in service benefits under most plans take the form of a lump sum and the maximum lump-sum benefit allowed by the Revenue is four times the deceased member's final salary.

Defined benefit plans: In addition to the above, many plans also provide pension benefits to surviving dependents on death in service and/or death after retirement.

Tax rules allow plans to provide survivor benefits of up to 100% of the deceased member's projected (i.e. pension that the member would have received at retirement based on the final salary at the date of death) or actual old-age pension.

Defined contribution plans: Usually provide for a lump sum of up to the Revenue limit (see above) on death in service. In the case of death after retirement, there may be no specific entitlement to a spouse's pension, the question of providing one may be left to the member when deciding on the deployment of the capital sum available at the time of retirement in order to purchase an annuity (see section Retirement Benefits, Benefit Structure/Formula).

Disability

Exempt approved plans: Disability benefits do not form part of the pension benefits of the occupational pension plan and are not subject to the plan trusts. Disability benefits, also known as permanent health insurance, are payable on the disablement of an employee under a separate insurance policy issued to the employer.

Protection of Rights

Protection of Assets

Exempt approved plans: The plan assets must be held in a trust fund separately from the assets of the sponsoring employer(s).

Financial and Technical Requirements / Reporting

Exempt approved plans: Trustees of defined benefit plans are required to ensure their plan complies with the funding standard. This minimum funding requirement is based on the accumulated benefit obligation and future service is not taken into account. To comply with the minimum funding standard, plans must be able to meet the following liabilities:

- Benefit rights of members acquired by payment of additional voluntary contributions or by transfers from another plan to the extent that the rights to which the transfer relates were originally secured by way of additional voluntary contributions;
- Future pensions, including guaranteed increases, of those already receiving pensions;
- Benefit rights relating to transfers (other than additional voluntary contribution transfers) from another plan;
- For those not already receiving pensions (i.e. current employees and former employees who have deferred entitlements under the plan), other benefit rights earned in respect of service before or after 1 January 1991, but excluding revaluation of preserved benefits in respect of service before 1 January 1991.
- A specified percentage of any other benefits payable from the plan including revaluation of preserved benefits in respect of service before 1 January 1991.
- Estimated expenses of administering the winding-up of the plan.

The trustees of defined benefit plans must submit a funding certificate issued by an actuary that proves sufficient funds to the Pensions Board at least every 3 years and 6 months (to be reduced to 3 years to be consistent with the IORPS Directive). The funding

certificate must be submitted within 9 months of the effective date of the certificate. In the case of underfunding, the trustees must submit a proposal to the Pensions Board, certified by an actuary and signed by the sponsoring employer(s), containing a plan for meeting the funding standard until the next funding certificate has to be submitted. Regulations provide grounds under which extended funding periods may be allowed.

The trustees of a defined benefit plan must prepare an annual report including, amongst other issues, a copy of the audited accounts, the auditor's report, the actuarial funding certificate (if any), details of funding proposals (if any), the investment report, latest statement of investment policy principles, and the names of the trustees and advisors to the plan.

The trustees of smaller defined benefit and defined contribution plans (i.e. those with fewer than 100 active and deferred members) may instead have an alternative annual report prepared which must include, amongst other issues, details on the amount of contributions paid to the plan, the investment report, the actuarial funding certificate (if any), and changes since the previous year in basic plan information. Audited accounts do not have to be submitted in this case.

Whistleblowing

Exempt approved plans: Relevant persons must report to the Pensions Board instances of fraudulent conversion or material misappropriation of plan assets, which they have reasonable cause to believe has occurred, is occurring, or is to be attempted.

Relevant persons in relation to a plan are legally defined to include:

- An auditor;
- An actuary;
- A trustee;
- An insurance intermediary;
- A person who is preparing, or who has been instructed to prepare, the plan annual report;
- A person appointed by the trustees to carry out specified duties (e.g. an administrator) to the extent that they have a role in relation to the plan.

The duty to report is absolute and a penalty of a fine and/or imprisonment applies to anyone convicted of failure to comply.

Any person can make a voluntary report to the Pensions Board on the state and conduct of a plan.

Standards for service providers

Exempt approved plans: Actuaries must be fellows of the Irish Institute of Faculties of Actuaries. Auditors appointed to the plan must not be:

- A member or trustee of the pension plan;
- A person employed by any of the trustees;
- An employer of any member of the pension plan;
- A director of the employer or a participating employer.

Fees

Exempt approved plans: No legal rules.

Winding up / Merger and acquisition

Exempt approved plans: The insolvency of an employer will usually engender the winding-up of any occupational pension plan sponsored by that employer.

If a pension plan is wound-up, the benefits must be secured in the following order:

- Benefits secured by additional voluntary contributions (if the wind-up commenced after 1 June 2002);
- Future pension entitlements, including guaranteed increases, of those already receiving pensions (and those members who are still in service and older than the normal pensionable age and not receiving pensions) as well as any pensions payable to eligible survivors following the death of a pensioner;
- Benefits for those members not yet in receipt of pensions who have not attained the normal pensionable age, the greater of preserved benefits but excluding revaluation of preserved benefits for pre-1991 service or the benefits payable under the rules of the plan, to the extent not already discharged.

Bankruptcy: Insolvency Insurance / Compensation Fund

Exempt approved plans: If the employer is insolvent and contributions remain unpaid, the Protection of Employees' (Employer's Insolvency) Act of 1984 makes provision for the payment of unpaid contributions to a pension plan by a statutory fund administered by the Department of Enterprise, Trade, and Employment, where the plan has insufficient assets to meet its benefit commitments in winding-up.

The amount that can be claimed from this statutory fund must not exceed the unpaid contributions that are due from the employer in accordance with plan rules including employer or employee contributions yet to be remitted to the plan. The amount is subject to an actuary certifying that the amount of unpaid contributions is less than the deficiency of assets in the plan. If the deficiency is smaller than the unpaid contributions then only such amount as is required to clear the deficiency will be paid from the statutory fund.

Disclosure of information / Individual action

Exempt approved plans: The trustees must account to plan members by giving them basic information about the plan, their personal entitlements, and how the plan is being administered. Plan members have rights to request and obtain information about their personal entitlements. Specific information must also be given about the benefit rights and any options available should the employees terminate employment, retire or die, and on the wind-up of their plan.

A wide range of documents, depending on the size and type of the plan, must be made available - some automatically and some on request - to help members monitor the operation of the plan, e.g. the:

- Trust deed and rules;
- Annual report;
- Annual audited accounts (in the case of plans with more than 100 active and deferred members).

Plan members may have recourse to a Pensions Ombudsman for any act of maladministration of a plan that may occur. They may also take legal action against a trustee for breach of trust or against an employer for breach of contract and/or about a possible employment law issue.

Other measures

Exempt approved plans: None.

Tax Treatment

Taxation of employee contributions

Exempt approved plans: Employee contributions are exempt from income tax up to a limit that depends on the employee's age.

The maximum tax-exempt contribution is 15% of total annual salary for employees younger than age 30, 20% if between ages 30 and 39, 25% if between ages 40 and 49, or 30% for employees aged 50 or older.

Taxation of employer contributions

Exempt approved plans: Employer contributions are considered as tax-deductible management expenses and do not constitute taxable fringe benefits for the employees.

Taxation of investment income

Exempt approved plans: Tax-exempt.

Taxation of benefits

Exempt approved plans: Taxed as income. The maximum lump sum of up to 1.5 times final salary is tax-exempt.

Regulatory and Supervisory Authorities

The Pensions Board: Established by the Minister for Social Welfare under the terms of the Pensions Act of 1990 the Pensions Board (PB) has the main functions to:

- Monitor and supervise the operation of the

Pensions Act and pension developments generally, including the activities of Personal Retirement Savings Accounts (PRSA) providers;
- Issue guidelines or guidance notes on the duties and responsibilities of plan trustees and codes of practice on specific aspects of their responsibilities;
- Issue guidelines or guidance notes on the duties and responsibilities of PRSA providers in relation to PRSA products;
- Encourage the provision of appropriate training for plan trustees and advise the Minister on standards for trustees;
- Advise the Minister on all matters in relation to the Pensions Act and on pension matters generally.

Occupational pension plans must register with the PB and most plans must pay an annual fee to meet the PB's administrative costs.

The PB can:

- Act on behalf of pension plan members who are concerned about their plan;
- Investigate the operation of pension plans;
- Prosecute for breaches of the Pensions Act;
- Take court action against trustees for the protection of members and their rights.

The PB includes representatives of trade unions, employers, government, pension plan trustees, the pensions industry, consumer interests, pensioner interests, and various professional groups involved with occupational pension plans and PRSAs.

The Pensions Board
Verschoyle House,
28-30 Lower Mount Street,
Dublin 2
Ireland
Tel.: (+353) 1 613 1900
Internet: http://www.pensionsboard.ie

Pensions Ombudsman: Investigates and decides complaints and disputes involving occupational pension plans and PRSAs.

Office of the Pensions Ombudsman
36, Upper Mount Street,
Dublin 2,
Ireland
Tel.: (+353) 1 647 1650
Internet: http://www.pensionsombudsman.ie

Italy

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

Before the introduction of the Legislative Decree No. 124 (see below) in 1993, complementary pensions were not explicitly regulated. Occupational pension funds established before 11 November 1992 ("old" funds) preserve more flexible rules but they are not allowed to accept new members beyond their original membership. These funds are not covered further in the following sections unless explicitly mentioned.

2000: Legislative Decree No. 47 of 18 February 2000 (*Riforma della disciplina fiscale della previdenza complementare a norma dell'art. 3 della legge 13 maggio 1999 n.133*); reforms the tax treatment and introduces personal pension plans implemented through life insurance contracts with entities licensed by the Insurance Supervision Authority.

1995: Law No. 335 of 8 August 1995 (*Riforma del sistema pensionistico obbligatorio e complementare*); concerns both social security and complementary pensions, amends Legislative Decree 124 (see below) by introducing numerous changes concerning governance, custody of assets and tax treatment.

1993: Legislative Decree No. 124 of 21 April 1993 (*Disciplina delle forme pensionistiche complementari, a norma dell'art.3, comma 1, lettera v, della legge 23 ottobre 1992, n. 421*); regulates the establishment and operation of closed and open pension funds and defines the tasks and powers of the supervisory authority of pension funds.

Plan Profile

Plan sponsors

Complementary occupational pension plans may, on a voluntary basis, be established based on:

- Nationwide collective agreements between employer and employee representatives (e.g. in an industry sector);
- Company level collective agreements between employer and employee representatives;
- Unilateral decisions by an employer in the absence of collective agreements.

National or regional professional associations of self-employed persons may establish pension plans for their members.

Types of plans

Pension plans must be implemented through the establishment of a closed pension fund or collective adherence of covered employees to an open pension fund (see below).

The establishment and registration of a pension fund are subject to the approval of the Pension Fund Supervisory Commission (*Comissione di vigilianza sui fondi pensione* - COVIP).

Membership is voluntary for covered employees.

Closed pension funds: Plans may be implemented through the establishment of closed pension funds the membership of which is restricted to the employees of the sponsoring employer(s) (e.g. employees of employers in an industry sector).

Closed pension funds are established by the plan sponsor(s) based on the collective agreement or unilateral decision mentioned in the section on plan sponsors. Closed pension funds are therefore also known as collective agreement funds.

Open pension funds: Instead of establishing a closed pension fund, the collective agreements or unilateral decisions mentioned in the section on plan sponsors may provide for plans to be implemented through the collective adhesion of covered employees to an open pension fund.

Open pension funds are established by banks, insurance companies, investment firms or asset management companies to implement personal pension plans offered by these institutions. They are open for the membership of any employee or self-

employed person on a personal basis without regard to the employer and are usually targeted at self-employed persons.

Institutional Framework

Closed pension funds: Closed pension funds are independent legal entities and manage the contribution and benefit administration.

Closed pension funds must have a governing and a supervisory board both consisting of an equal number of employee and employer representatives. A general manager must be appointed.

At least one-half of the members of the governing board and the general manager must be of good reputation and fulfill certain professional requirements.

Open pension funds: Open pension funds are not independent legal entities.

The respective financial institution that established the fund manages the contribution and benefit administration through its governing board. At least one-half of the members of the governing board must be of good reputation and fulfil certain professional requirements.

A person (*responsabile del fondo*) must be appointed to supervise the fund and to ensure that it is managed in the sole interest of members.

Coverage

All funds: Private- and public-sector employees.

No legal rules concerning discrimination in coverage.

National or regional professional associations of self-employed persons may establish pension plans for their members that may be defined contribution or defined benefit. Self-employed persons may also make provisions on a personal basis through personal plans implemented through life insurance contracts or open pension funds. Profession-wide and personal plans are not covered further in the following sections.

Financing / Investment

Sources of funds

Employee contributions

All funds: Employee contributions depend on plan rules and employees usually contribute.

There is no legal upper limit on employee contributions but they are generally within the maximum amount for which tax relief is granted (see section Taxation of employee contributions).

Employer contributions

All funds: Employer contributions depend on plan rules and employers usually contribute.

There is no legal upper limit on employer contributions but they are generally within the maximum amount for which tax relief is granted (see section Taxation of employer contributions).

Other sources of funds

All funds: The allocation of annual severance pay (*Trattamento di fine Rapporto* - TFR) constitutes an important other source of funds.

For members who first started employment after 28 April 1993, employers must allocate the whole annual TFR (6.91% of salary) to the pension fund. For other employees, the share of TFR allocated to the pension fund is defined by collective agreements but favourable tax treatment of employee contributions (see section Taxation of employee contributions) is only granted if the total contribution (i.e. employer and employee contribution) is at least twice the amount of TFR allocated to the fund.

Methods of financing

All funds: Funded.

Asset management

Closed pension funds: The asset management must be contracted to an asset manager that may be a bank, insurance company, investment firm or asset management company.

An agreement must be signed between the governing board of the pension fund and the asset manager outlining the guidelines for the investment of fund assets.

Open pension funds: The assets are managed by a financial intermediary that is usually the institution that established the fund.

All funds: Of total assets invested:

- A maximum of 50% may be in bonds and equities issued in OECD member countries that are not traded in regulated markets;
- A maximum of 20% may be in cash;
- A maximum of 20% may be in closed-end (securities and real estate) investment funds, subject to the restriction that the pension fund's investment must not constitute more than 25% of the total value of an investment fund.

Additional limits for equities and bonds not traded on regulated markets of EU member countries, USA, Canada and Japan and issued in nonOECD member countries exist.

Of total assets invested, a maximum of 15% may be in bonds and equities issued by a single issuer or by issuers of the same group. However, the pension fund's investment must not constitute more than 5% of the nominal value of all shares of a listed company and not more than 10% of a nonlisted company. Pension funds must in any case not obtain a commanding position over an issuer.

Loans are prohibited.

Of total assets invested, a maximum of 20% may be in a sponsoring company (this limit is 30% in the case of funds based on industry-wide collective agreements).

Pension fund assets must be kept by a custodian.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All funds: No legal rules.

Waiting periods depend on plan rules.

Vesting rules

All funds: Employer and employee contributions vest immediately.

Preservation, portability, transferability

All funds: Portability is possible upon changing employers if still covered by the same collective agreement.

Upon changing employers and if the membership conditions are no longer met, employees may either withdraw their accumulated capital or transfer it to another open or closed pension fund. If withdrawals are made after a voluntary termination of employment, comparatively unfavourable tax treatment applies.

Employees may otherwise transfer their accumulated capital to another pension fund after three years of membership (five years in the first five years of a fund's existence).

Retirement benefits

Benefit qualifying conditions

All funds: Benefits are payable when members reach the normal retirement age under the social security scheme (currently ages 65 for men and 60 for women) provided that at least 5 years of contributions to the occupational plan have been made.

Members eligible for a seniority pension under the social security scheme may receive benefits up to 10 years before the normal retirement age provided that at least 15 years of contributions to the occupational plan have been made.

Employees who have been members of a plan for at least 8 years may withdraw their accumulated capital at any age if they have medical expenses, purchase a first house for themselves or their children or have substantial expenses for repairing the house. The expenses must be legally certified.

Benefit structure / formula

All funds: Defined contribution.

Retirees may receive up to 50% of their accumulated capital as a lump sum at retirement (favourable tax treatment is only granted if the lump sum does not exceed 33% of the accumulated capital - see section Taxation of benefits).

The remaining capital must be used to purchase an annuity from a life insurance company licensed by the Insurance Supervision Authority.

Benefit adjustment

All funds: No legal rules.

Survivors

All funds: Coverage of survivor benefits is voluntary and often offered as a side-contract.

No legal rules concerning benefit qualifying conditions and/or benefit structure.

Disability

All funds: Coverage of disability benefits is voluntary and often offered as a side-contract.

No legal rules concerning benefit qualifying conditions and/or benefit structure.

Protection of Rights

Protection of Assets

All funds: Pension fund assets must be kept by a custodian.

Closed pension funds: Closed pension funds are independent legal entities that must hold the fund assets completely separate from the assets of the sponsoring employer(s).

Open pension funds: Open pension funds are not independent legal entities but there is a strict legal separation between the fund assets and the assets of the bank, insurance company, investment firm or asset management company respectively.

Financial and Technical Requirements / Reporting

All funds: The Pension Fund Supervisory Commission (*Comissione di vigilianza sui fondi pensione* - COVIP) must be informed annually of the amount of contributions received by a pension fund, separately for employer and employee contributions and TFR.

COVIP has issued detailed rules on the accounting of pension funds.

COVIP may request certain reports and information to be regularly submitted with regard to pension funds.

Whistleblowing

All funds: No legal rules.

Standards for service providers

All funds: Custodians must be depositary banks and may carry out instructions only after verifying their compliance with legal requirements.

Fees

All funds: No legal rules.

Winding up / Merger and acquisition

All funds: If the sponsoring employer(s) ceases operations, a liquidator is appointed to wind up the fund.

Pension fund assets constitute separate and autonomous capital that must not be included in winding-up or bankruptcy proceedings of the sponsoring employer(s) or institution(s) managing the fund.

Bankruptcy: Insolvency Insurance / Compensation Fund

All funds: There is no requirement for funds to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

All funds: Pension funds must provide prospective members with information on the fund rules and the financial situation of the fund. Pension funds must then provide members with an annual report including information on the fund's situation and their accumulated capital.

No legal rules on procedures to settle conflicts between members and the management of pension funds.

Other measures

All funds: No legal rules.

Tax Treatment

Taxation of employee contributions

All funds: Employee contributions are tax-deductible up to 12% of income, subject to an upper limit on total employee and employer contributions of EUR 5,164 a year. TFR is excluded from this limit.

For employees who first started employment before 28 April 1993, favourable tax treatment of employee contributions is only granted if the total contribution (i.e. employer and employee contribution) is at least twice the amount of TFR allocated to the fund (see section Financing / investment, other sources of funds).

Taxation of employer contributions

All funds: Employer contributions are tax-deductible without limit, but are subject to a 10% solidarity tax.

Employer contributions are taken into account for the upper limit on tax-deductibility of employee contributions (see section Taxation of employee contributions).

Taxation of investment income

All funds: Net investment income is taxed at an annual rate of 11%.

Taxation of benefits

All funds: Pension benefits are taxed as income, net of the amount on which tax has already been paid, i.e.:

- Contributions exceeding the tax-deductible limit and on which tax was therefore paid;
- Net investment income on which tax has already been levied on the pension fund at 11%.

Lump sums paid at retirement are taxed separately on the amount not already taxed (see above). The amount corresponding to the net investment income is taxed again, however, if the lump sum exceeds one-third of the accumulated capital.

Regulatory and Supervisory Authorities

Pension Fund Supervisory Commission: supervises all pension funds, keeps the register of pension funds and ensures their compliance with legal requirements.

COVIP may request pension funds to submit certain information and may apply sanctions in the case of violation of legal requirements and/or if false information is submitted.

Comissione di vigilianza sui fondi pensione
Via in Arcione 71
00187 Rome
Italy
Tel.: (+39) 6 69 506 1
Fax: (+39) 6 69 506 271
Internet: www.covip.it

Insurance Supervision Authority: supervises insurance companies, "old" occupational pension funds administered by insurance companies and individual pension plans implemented through life insurance contracts.

Istituto per la vigilanza sulle assicurazioni private e di interesse collectivo
Via del Quirinale, 21
00187 Rome
Italy

Tel.: (+39) 6 42 133 1

Fax: (+39) 6 42 133 638
Internet: www.isvap.it

Bank Supervisory Authority: supervises banks, financial intermediary firms and "old" occupational pension funds administered by banks.

Banca d'Italia
Via Nazionale, 91
00184 Rome
Italy
Tel.: (+39) 6 47 921
Internet: www.bancaditalia.it

Stock market and securities commission: approves the prospectuses to be used in the marketing of open pension funds.

Commissione Nationale per le Società e la Borsa
Via Isonzo 19/D
00 198 Rome
Italy
Tel.: (+39) 6 84 772 16
Fax: (+39) 6 84 167 03
Internet: www.consob.it

Luxembourg

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2005: Act on Pension Savings Companies with Variable Capital (*Sociétés d'épargne-pension à capital variable* - SEPCAVs) and Pension Savings Associations (*Associations d'épargne-pension* - ASSEPs); introduces possibility to establish pension funds as SEPCAVs and ASSEPs; provides for authorization and supervision of SEPCAVs and ASSEPs and regulates minimum requirements concerning their administration.

2000: Regulations introducing pension funds other than SEPCAVs and ASSEPs; provide for authorization and supervision of pension funds other than SEPCAVs and ASSEPs; impose asset management restrictions; refer to the Insurance Sector Act for a wide range of regulations governing insurance companies which are similarly applicable to these pension funds.

1999: Complementary Pensions Act; authorizes three types of complementary occupational pension plans, provides for their registration and supervision, regulates minimum requirements concerning vesting and transferability of accrued rights; prohibits discrimination between men and women and determines tax treatment of contributions, investment income and benefits. This Act applies only to Luxembourg-based employers.

1991: Insurance Sector Act; provides for authorization and supervision of insurance companies and regulates minimum requirements concerning their administration.

Plan Profile

Plan sponsors

Employers, singly or as a group, may on a voluntary basis establish complementary occupational pension plans for their employees.

No legal requirements for plans to be based on collective agreements, but employers must consult with employee representatives before establishing a plan.

Self-employed persons may establish profession-wide complementary occupational pension plans.

Types of plans

Plan sponsors may choose between three types of plans: pension funds, group insurance and book reserve. These types are institutionally guided by the three financing methods allowed by the Complementary Pensions Act.

All plans: All plans must be registered with the Social Security Inspectorate (*Inspection générale de la sécurité sociale*. Plans must regulate:

- The type of plan adopted;
- Benefit provisions;
- Admission requirements;
- Rules securing confidentiality;
- Rules to provide sufficient information to plan members;
- Rules governing preservation and transfer of rights;
- Rules ensuring sufficient funding.

Persons newly employed by a sponsoring employer on or after 1 January 2000 who are eligible for plan membership must become members of the plan.

Pension funds: Plans may be implemented through the establishment of a pension fund.

Pension funds may be established as Pension Savings Companies with Variable Capital (SEPCAVs), Pension Savings Associations (ASSEPs) or other types of pension funds.

As of 1 January 2006 5 SEPCAVs, 10 ASSEPs and 3 other pension funds have been established.

Group insurance: Sponsoring employers may contract group insurance policies with an insurance company to implement the pension plan.

The establishment of insurance companies is subject to a license from the Insurance Commission (*Commissariat aux Assurances*).

Book reserve: Pension promises defined in the plan may be financed through allocating funds to internal reserves in the sponsoring employer's accounts.

Institutional Framework

Pension funds: Pension funds are independent legal entities separate from the sponsoring employer(s) and are established as Pension Savings Companies with Variable Capital (SEPCAVs), Pension Savings Associations (ASSEPs) or other types of funds.

The establishment of SEPCAVs and ASSEPs requires the authorization of the Financial Sector Supervision Commission, which is also the prudential supervisor of these types of pension funds.

The establishment of pension funds other than SEPCAVs or ASSEPs requires the authorization of the Minister of Finance. The application for authorization must be submitted to the Insurance Commission, which is also the prudential supervisor of these types of pension funds.

A SEPCAV takes the legal form of a limited liability company with a capital value equal to its net asset value. Members buy shares of the SEPCAV by means of their contributions and subsequently share the investment risk. The shares are redeemed by the SEPCAV at retirement or at death of the affiliated member. SEPCAVs mainly implement defined contribution plans.

An ASSEP takes the legal form of an association and is used to implement both defined benefit and defined contribution plans.

There are no legal rules concerning the legal form of other types of pension funds and they may be used to implement both defined benefit and defined contribution plans.

All pension funds must have a governing board. The constitutive documents of SEPCAVs and ASSEPs may provide for the compulsory presence on the board of one or more members appointed by the sponsoring employer(s) and of one or more representatives of the beneficiaries or members.

SEPCAVs and ASSEPs may manage the pension fund in-house or outsource the management to another institution. The law provides for outsourcing of the asset and liability management functions to one or more asset and liability managers. Liability managers manage the administration of the plan and benefits and may be insurance companies or persons with actuarial expertise. Fund assets must be held by a custodian.

Liability managers of SEPCAVs and ASSEPs must either be authorized by the Financial Sector Supervision Commission (*Commission de Surveillance du Secteur Financier* - CSSF) on the basis of criteria of competence, good repute and financial solidity, or by the Insurance Commission as a life insurance company. The CSSF must give its agreement to the appointment and removal of the liability manager and assess the suitability of the liability manager to perform its duties taking into account its size, its financial capacity, its organization and generally the compatibility of its activity with the purpose of the SEPCAV or ASSEP.

The liability managers of SEPCAVs and ASSEPs establish the amount of retirement benefits and rights of the members and beneficiaries. Custodians monitor the prompt payment of contributions and collect contributions from contributors.

Group insurance: The insurance company manages the contribution and benefit administration.

Book reserve: The sponsoring employer manages the contribution and benefit administration.

Coverage

All plans: Private- and public-sector employees, but public-sector plans are not subject to the same regulatory framework as private-sector plans. Civil servants are not covered by a complementary occupational pension plan.

Self-employed persons may establish profession-wide

plans that must be implemented through a SEPCAV or an ASSEP, but none have yet done so. They usually make provisions for retirement through participation in personal savings plans.

The rules covering public-sector plans and the provisions made by the self-employed are not covered further in the following sections.

Complementary occupational pension plans must neither directly nor indirectly discriminate between men and women, and both full-time and part-time employees must be covered. Plan membership may be restricted to employees with earnings above the social security ceiling. The minimum age limit for admission is usually 25.

Financing / Investment

Sources of funds

Employee contributions

Pension funds: Employee contributions are voluntary. Customary plan rules cannot yet be observed.

Group insurance: Employee contributions are voluntary. Employees usually contribute between 3% and 5% of salary under both defined benefit and defined contribution plans.

Book reserve: Noncontributory.

Employer contributions

All plans: Employer contributions or allocations to book reserves must not exceed 20% of salary.

Pension funds: Customary plan rules cannot yet be observed.

Group insurance: In the case of defined contribution plans, the contribution rate is usually between 2% and 5% of salary.

In the case of defined benefit plans, the contribution rate depends on the benefit structure.

Book reserve: The allocation to reserves depends on plan rules.

Other sources of funds

All plans: None.

Methods of financing

Pension funds and group insurance: Funded.

Book reserve: Special system of funding (internal accounting for pension liabilities).

Asset management

Pension funds: Pension funds may manage the assets in-house or delegate the asset management to an external asset manager.

Asset managers appointed by a Pension Savings Company with Variable Capital (SEPCAV) or a Pension Savings Association (ASSEP) must be established in Luxembourg or in another EU member state and must be authorized for investment portfolio management in accordance with Directives 85/611/EEC, 93/22/EEC, 2000/12/EC, 2002/83/EC and 2003/41/EC. Tasks may be delegated to professionals in countries outside the EU if they are subject to permanent supervision by a supervisory authority in their countries. They must also be authorized by the Financial Sector Supervision Commission (CSSF) on the basis of criteria of competence, good repute and financial solidity.

The CSSF must agree to the appointment and removal of the asset manager and assesses the suitability of the asset manager to perform its duties taking into account its size, its financial capacity, its organization and generally the compatibility of its activity with the purpose of the SEPCAV or ASSEP.

There is no legal maximum level of management fees that asset managers are allowed to charge the pension fund, but the remunerations and expenses of asset managers, as well as the method of calculation of such remunerations must be disclosed.

The 2005 Act introduced the framework that SEPCAVs and ASSEPs must invest in accordance with the prudent person rule. Assets must be invested in the best interests of members and beneficiaries to ensure the security, quality, liquidity and profitability

of the portfolio. Certain pension plans may provide individual choice for affiliated members between several proposed investment options, depending on the type of pension promise.

Pension plan rules must set out the principles of the investment policy and must include the principle of spreading risk. Assets should be invested predominantly on regulated markets and other types of investment should be kept to prudent levels. Excessive risk exposure to a single counterparty, asset, issuer or group of sponsors should be avoided. A maximum of 5% of total assets may be invested in the sponsoring employer and, if the sponsoring employer belongs to a group of companies, a maximum of 10% of total assets may be invested in that group.

Of total assets invested by pension funds other than SEPCAVs and ASSEPs:

- A maximum of 15% may be in a single investment fund;
- A maximum of 10% may be in shares issued by a single company having its headquarters in an OECD member country;
- A maximum of 5% may be in shares issued by companies not having their headquarters in an OECD member country, with a maximum of 1% in shares issued by a single company;
- A maximum of 10% may be in buildings located in an EU member state. Only 80% of a building's actual value is taken into account to cover liabilities;
- A maximum of 20% may be in deposit accounts with a bank or another financial institution licensed by the CSSF and approved by the Insurance Commission.

Fund assets must be kept by a custodian.

Group insurance: In the case of defined contribution plans, the asset management strategy is determined by the insurance company. In the case of defined benefit plans, either the sponsoring employer or the insurance company determines the asset management strategy and bears the risk of funding shortfalls due to insufficient investment returns.

If the insurance company is responsible for the asset management strategy, of total assets covering technical provisions invested:

- 100% may be in bonds issued or guaranteed by a government of an EU or OECD member country;
- 100% may be in bonds issued or guaranteed by an international body the members of which comprise at least two EU or OECD member countries;
- A maximum of 40% may be in bonds issued by credit institutions, with a maximum of 25% in bonds issued by a single credit institution;
- A maximum of 40% may be in bonds issued by companies having their headquarters in an EU member state and in bonds traded on a regulated market that are issued by companies having their headquarters in an OECD member country;
- A maximum of 5% may be in bonds traded on a regulated market that are issued by a single company having its headquarters in an EU member state;
- A maximum of 10% may be in bonds issued by companies having their headquarters not in an EU but in an OECD member country, with a maximum of 2.5% in the bonds issued by a single company;
- A maximum of 5% may be in bonds not traded on a regulated market that are issued by companies having their headquarters in an EU member state, with a maximum of 1% in the bonds issued by a single company;
- A maximum of 20% may be in shares issued by companies having their headquarters in an EU member state, shares traded on a regulated market that are issued by companies having their headquarters in an OECD member country, and units of collective investment schemes investing at least 80% in these assets;
- A maximum of 5% may be in shares traded on a regulated market that are issued by a single company having its headquarters in an EU member state;
- A maximum of 2.5% may be in shares traded on a regulated market that are issued by a single company having its headquarters not in an EU but in an OECD member country;
- A maximum of 2.5% may be in shares not traded on a regulated market that are issued by companies

having their headquarters in an EU member country, with a maximum of 1% in the shares issued by a single company;
- A maximum of 5% may be in bonds and shares issued by a single company;
- A maximum of 5% may be in bonds and shares not traded on a regulated market;
- A maximum of 25% may be in investment funds established either according to the law of Luxembourg or in compliance with EU Directive 85/611/EC and that are mainly invested in government bonds, and in money market investment funds established according to the law of Luxembourg or in compliance with EU Directive 85/611/EC;
- A maximum of 2.5% and 5% respectively may be in a single investment fund mainly invested in government bonds and established according to the law of Luxembourg or in compliance with EU Directive 85/611/EC;
- A maximum of 2.5% and 5% respectively may be in a single money market investment fund established according to the law of Luxembourg or in compliance with EU Directive 85/611/EC;
- A maximum of 40% may be in buildings located in an EU member state, with a maximum of 10% in one or several buildings that can be considered as one investment. Only 80% of a building's actual value is taken into account for covering technical provisions;
- A maximum of 10% may be in mortgage certificates on buildings located in Luxembourg, with a maximum of 2.5% in a single debtor;
- A maximum of 20% may be in deposit accounts with a bank or another financial institution licensed by the CSSF and approved by the Insurance Commission.

If the sponsoring employer determines the asset management strategy and bears the risk of insufficient investment returns, the same investment restrictions as for SEPCAVs and ASSEPs apply.

Book reserve: Not applicable.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

A waiting period of between two and five years of service and a minimum age limit of 25 usually apply.

Vesting rules

All plans except Book reserve: Employee contributions must vest immediately.

Employer contributions vest after a maximum of 10 years of service. Pension rules must specify the applicable vesting rules.

Pension funds: Customary plan rules with regard to employer contributions cannot yet be observed.

Group insurance: Employer contributions usually vest immediately

Book reserve: Pension promises usually vest after 5 years of plan membership.

Preservation, portability, transferability

All plans: Upon terminating employment before retirement, employees may:

- Transform the value of their vested rights into a deferred pension;
- Transfer the value of their vested rights to the plan of the new employer if both the former and the new employer agree to this transfer;
- Receive the value of their vested rights as a lump sum if the new employer is located in a foreign country or if employees are aged 50 or over.

There are no legal requirements for deferred pensions to be indexed.

Employees and/or the sponsoring employer may decide to transform the value of the vested rights into an immediately payable lump sum if a deferred pension payable from retirement age would not exceed one-tenth of the minimum legal salary and if a deferred lump sum payable at retirement would not exceed ten times the minimum legal salary.

In the case of defined contribution plans, the value of the vested rights equals the accumulated capital revalued until plan retirement age. The revaluation rate is subject to plan rules. In the case of defined benefit plans, the value of the vested rights is calculated based on the pension that would have been payable after the maximum years of pensionable service allowed in the plan rules, the actual period of pensionable service and the period of pensionable service which the employee would have completed if employed until the plan retirement age.

Retirement benefits

Benefit qualifying conditions

All plans: The retirement age is usually 65 for both men and women.

Provision for early retirement from age 60 is common and actuarial reductions apply. Plans do not usually provide for benefits to be deferred beyond plan retirement age.

Benefit structure / formula

Pension funds except SEPCAVs: Plans may be defined benefit or defined contribution.

SEPCAVs: Defined contribution.

The entire pension benefit may be commuted to a lump sum at retirement.

Group insurance and book reserve: In the case of defined benefit plans, the integrated benefit target (including social security benefits) is usually 72% of final pensionable salary after 40 years of service. A higher benefit target is prohibited by tax rules. Final pensionable salary is usually defined as the average of the three best annual salaries in the last 5 years before retirement.

Integration with social security benefits is usually achieved by using different benefit targets for earnings below and above the social security ceiling (step-rate integration), e.g. between 5% and 15% of final pensionable salary for the part of the salary below the social security ceiling and 72% for the part above that ceiling.

Integration is sometimes also achieved by deducting the social security benefit from the occupational pension benefit (benefit offset integration) and similar benefit targets for the parts of the salary below and above the social security ceiling apply under these plans.

Defined contribution plans are not explicitly integrated with social security benefits, but most plans take into account that social security benefits will be paid when determining the contribution rate.

Benefit adjustment

All plans: No legal rules.

Pension funds: Customary plan rules cannot yet be observed.

Group insurance and book reserve: Pensions are usually increased in line with inflation.

Survivors

All plans: No legal rules.

Pension funds: Customary plan rules cannot yet be observed.

Group insurance and book reserve: Survivor pensions are provided under virtually all plans. Usually the spouse's pension is between 60% and 80% and the orphan's pension is 20% of the deceased member's projected or actual retirement benefit with the projection commonly being limited to age 55.

Survivor pensions are integrated with social security benefits.

Disability

All plans: No legal rules.

Pension funds: Customary plan rules cannot yet be observed.

Group insurance and book reserve: Disability benefits are usually provided either as a lump sum of one or two times the member's annual salary or a pension based on projected service.

Disability benefits are integrated with social security

benefits.

A partial disability benefit is usually paid in the case of a partial reduction in earnings capacity.

Protection of Rights

Protection of Assets

Pension funds: Pension fund assets must be held separately from the assets of the sponsoring employer.

Fund assets must be held by a professional custodian, who, in case of Pension Savings Companies with Variable Capital (SEPCAVs) and Pension Savings Associations (ASSEPs) must also perform some oversight functions.

The custodian must:

- Keep the pension fund assets;
- Ensure that in transactions involving pension fund assets, the consideration is remitted to it within the usual time limits;
- Ensure that income received by pension funds is applied in accordance with the articles of association, the pension plan rules and the technical note;
- Monitor the instructions involving the assets received by or on account of the pension fund in accordance with the law and the articles of association, the pension scheme rules and the technical note;
- Monitor if contributors pay contributions punctually.

Group insurance: Assets must be held separately from the assets of the sponsoring employer.

Book reserve: See section Bankruptcy: Insolvency insurance / Compensation Fund.

Financial and Technical Requirements / Reporting

Pension funds: Pension funds must prepare audited annual accounts and annual reports.

If pension funds that implement occupational pension plans provide cover against biometric risks and/or guarantee either an investment performance or a given level of benefits they must submit, for each pension plan, a financing plan. The plan must comprise, at least, the methods and bases of calculation of the technical provisions, including a justification of the rate of interest, other information on the economic and actuarial assumptions and mortality tables applied. It must also include a description of the actuarial method used to finance payments, accompanied by a statement including, amongst others, the consequences of the utilization of the method of financing.

An actuarial assessment of these funds must be carried out annually and sent to the Financial Sector Supervision Commission or the Insurance Commission (CSSF) as appropriate. Pension funds may undertake the actuarial assessment in-house, in which case they must prove that they have the necessary actuarial expertise, or appoint a liability manager to carry out the actuarial assessment.

Group insurance: Insurance companies must comply with the financial and technical requirements defined in the Insurance Sector Act. Regular financial reporting to the Insurance Commission is required.

Book reserve: Employers must submit an annual report on the development of the plan to the Social Security Inspectorate.

Whistleblowing

Pension funds: Liability managers and auditors of Pension Savings Companies with Variable Capital (SEPCAVs) and Pension Savings Associations (ASSEPs) must promptly report to the Financial Sector Supervision Commission (CSSF) any fact or decision which breaches the legal or regulatory provisions or affect the continuous functioning of the fund or lead to a refusal to certify the adequacy of technical provisions or accounts.

Standards for service providers

Pension funds: The appointment of asset and liability managers and custodians of Pension Savings Companies with Variable Capital (SEPCAVs) and Pension Savings Associations (ASSEPs) must

be approved by the Financial Sector Supervision Commission (CSSF), which assesses their suitability taking into account their size, their financial capacity, their organization and generally the compatibility of its activity with the purpose of the pension fund.

The custodian must be established in Luxembourg or in another EU member state and must be authorized for the activity of asset custody in accordance with Directive 93/22/EEC or Directive 2000/12/EC, or authorized as a depositary for the purposes of Directive 85/611/EEC.

Auditors must be registered with the Ministry of Justice and experienced in the financial sector in order to provide services to pension funds.

No legal rules in the case of other pension funds.

Insurance companies or persons with actuarial expertise can be liability managers. There is no legal definition of actuarial expertise.

Group insurance and book reserve: Not applicable.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All plans: In the case of merger or acquisition of sponsoring employers, all accrued rights must be transferred to the plan of the new employer.

Pension funds: If a Pension Savings Companies with Variable Capital (SEPCAVs) or a Pension Savings Associations (ASSEPs) is wound up, the following claim satisfaction hierarchy applies:

- Creditors other than members of the plan have to be secured first;
- Plan members;
- Sponsoring employers.

If pension funds other than SEPCAVs and ASSEPs are wound up, the plan members have absolute priority in the distribution of assets.

Bankruptcy: Insolvency Insurance / Compensation Fund

Pension funds and group insurance: No legal rules.

Book reserve: Sponsoring employers must insure the insolvency risk with an insurance company. The insurance policy must cover all accrued pension rights with the exception of benefit improvements that have been introduced in the 2 years prior to insolvency. The insurance company is not liable if it is obvious that the aim of establishing a book reserve plan was to involve the insurance company.

Disclosure of information / Individual action

All plans: All plan members must be provided with a copy of the pension plan rules and any amendments. Members and beneficiaries may request the annual accounts and reports of the pension fund and the statement of investment policy principles.

Members must also receive every year brief particulars of the situation of the pension fund as well as the current level of their accrued individual benefits. Beneficiaries receive on retirement, or when the benefits become due, the appropriate information on the benefits which are due and the corresponding payment options.

Plan members may submit complaints concerning the behaviour and actions of a person involved in the plan management to the Social Security Inspectorate. Complaints concerning actions of Pension Savings Companies with Variable Capital (SEPCAVs) and Pension Savings Associations (ASSEPs) may also be submitted to the Financial Sector Supervision Commission (CSSF). Complaints concerning insurance companies and other pension funds may be submitted to the Insurance Commission.

Other measures

All plans: Plan rules may only be changed with effect for the future. Changes to the detriment of plan members are only allowed:

- In the case of major legal changes in the social

security and/or fiscal law;
- If the situation of the economy or of a single employer makes the employer contribution rate excessive.

Any increase in employee contributions requires the employees' consent. If an employee does not agree with the increase, the old contribution rate must continue to apply to this employee.

Tax Treatment

All plans: Favourable tax treatment of employee and employer contributions is granted if employer contributions or allocations to book reserves do not exceed 20% of annual salary and if the total benefit target for retirement benefits under defined benefit plans does not exceed 72% of final pensionable salary.

Taxation of employee contributions

All plans: Tax-deductible up to EUR 1,200 a year.

Taxation of employer contributions

All plans: Tax-deductible up to 20% of salary.

Book reserve: The premium paid for insolvency insurance is tax-deductible up to 20% of salary.

Taxation of investment income

Pension funds and Group insurance: Tax-exempt.

Book reserve: Not applicable.

Taxation of benefits

All plans: Benefits accrued before 1 January 2000 are taxed as income. Benefits accrued after that date are tax-exempt.

Regulatory and Supervisory Authorities

Social Security Inspectorate: Supervises all complementary occupational pension plans and has the duties and powers to:

- Register plans and verify that plans are in compliance with legal requirements;
- Examine plans actuarially at least every 5 years;
- Issue certificates proving that plans are in compliance with legal requirements;
- Request persons involved in the management of plans to provide any necessary information.

Inspection générale de la sécurité sociale

Ministère de la sécurité sociale
26, rue Zithe
2763 Luxembourg
Luxembourg
Tel.: (+352) 478 63 11
Fax: (+352) 478 63 28
Internet: www.mss.etat.lu/

Insurance Commission: Supervises the prudential compliance of insurance companies and pension funds other than Pension Savings Companies with Variable Capital (SEPCAVs) and Pension Savings Associations (ASSEPs). In order to pursue its supervisory function, the Insurance Commission may request any necessary information from supervised entities.

Commissariat aux Assurances
7, boulevard Royal
2449 Luxembourg
Luxembourg
Tel.: (+352) 226 91 11
Fax: (+352) 226 91 04 44
Internet: www.commassu.lu

Ministry of Finance: Authorizes pension funds other than SEPCAVs and ASSEPs.

Ministère des Finances
3, rue de la Congrégation
1352 Luxembourg
Luxembourg
Tel.: (+352) 478 26 35
Fax: (+352) 478 52 41
Internet: www.fi.etat.lu

Financial Sector Supervision Commission: Authorizes and supervises SEPCAVs and ASSEPs. In order to pursue its supervisory function, the Financial Sector Supervision Commission may request any necessary information from supervised entities.

Commission de Surveillance du Secteur Financier
110, route d'Arlon
2991 Luxembourg
Luxembourg
Tel.: (+352) 262 51 1
Fax: (+352) 262 51 60 1
Internet: www.cssf.lu

Republic of Moldova

Exchange rate: USD 1.00
equals 12.81 lei (MDL)

Regulatory Framework

1999: Law on Nonstate Pension Funds (as amended in 2002); regulates the establishment, operation, supervision and winding up of private pension funds and defines investment restrictions.

1997: Tax Code; regulates the tax treatment of contributions (the tax treatment of investment income and benefits has not yet been regulated).

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis a complementary occupational pension plan for their employees.

Banks holding an authorization from the National Bank of Moldova to accept deposits from individuals and insurance companies registered in the Republic of Moldova may establish complementary pension plans and offer them to employers.

Types of plans

Closed plans: Closed plans are established by employers, singly or as a group, and must be implemented through closed pension funds. Membership is restricted to the employees of the sponsoring employer(s).

Open plans: Open plans are established by banks or insurance companies and must be implemented through open pension funds. Any employer may affiliate its employees through an agreement with the fund.

All plans: All pension plans must regulate:

- Contribution rates;
- Membership conditions;
- Penalties for late contribution payments;
- Investment rules;
- Benefit qualifying conditions;
- Disclosure of information to members.

Plan sponsors must obtain the approval of the State Inspection for Insurance and Nonstate Pension Fund Supervision (*Inspectoratul de Stat pentru Supravegherea Asigurarilor si Fondurilor Nestatale de Pensii* - SIINPFS) to establish a pension fund. The charter of the fund must be attached to the application for approval and must regulate:

- Type of fund to be established;
- Obligations of the fund towards its members;
- Rules concerning the fund's administration;
- Rules concerning individual pension accounts;
- Procedure for the coverage of administrative costs.

After obtaining the approval of the SIINPFS, the plan sponsors must apply to the State Registration Chamber for registration of the fund with the State Register. As and when the fund is registered, it acquires independent legal status. In order to start operations it must submit proof of the registration to the SIINPFS.

The relations between members, employers and pension funds must be regulated by collective pension agreements concluded between the three parties. These pension agreements must cover:

- The pension plan;
- The rights and obligations of members, employers and pension funds;
- The duration of the agreement and the conditions for its termination;
- The procedure for settling disputes between members or employers and pension funds.

In order to become legally effective, pension agreements must be approved by the SIINPFS and registered by the State Registration Chamber.

Participation is voluntary for covered employees and must not be made a condition of employment.

No application for the establishment of a closed or open pension fund has yet been received by the SIINPFS.

Institutional Framework

All plans: Pension funds are independent legal entities administered by a fund board. The fund board has in particular the responsibilities to:

- Ensure that the fund's administration is in compliance with legal requirements, the charter of the fund, the pension plan and instructions of the State Inspection for Insurance and Nonstate Pension Fund Supervision - (SIINPFS);
- Inform fund members of their rights and obligations;
- Select a president and vice-president of the fund among the board's members;
- Appoint an asset manager, custodian and auditor.

The fund board must have at least two members. Board members are appointed by the founding bank or insurance company in the case of open pension. In the case of closed pension funds it must consist of an equal number of employer and employee representatives.

Each employer that is party to a pension agreement with an open pension fund must establish jointly with its employees a fund committee consisting of at least two members and an equal number of employer and employee representatives. A separate fund committee must be established for each signed pension agreement. Fund committees have the tasks to:

- Provide the fund board with necessary information;
- Represent the fund members' interests before the fund board and third parties;
- Exercise control over the compliance of the fund board, employer and members with their commitments arising from the pension agreement.

Pension funds manage the contribution and benefit administration in-house.

Coverage

All plans: Private-sector employees.

Self-employed persons, employees of employers not offering membership of an occupational plan and employees not willing to join the plan offered by their employer may join an open pension plan on a personal basis through signing an individual pension agreement with an open pension fund.

Closed plans: Membership conditions must not be discriminatory with regard to race, nationality, ethnic origin, language, gender, religion, views, political affiliation, property status or social origin. There are no legal rules concerning discrimination between part-time and full-time employees.

Open plans: No legal rules concerning discrimination in coverage.

Financing / Investment

Sources of funds

Employee contributions

All plans: No legal rules.

Employee contribution rates depend on plan rules.

Customary plan rules cannot yet be observed.

Employer contributions

All plans: No legal rules.

Employer contribution rates depend on plan rules.

Customary plan rules cannot yet be observed.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded in individual accounts.

Asset management

All plans: The fund board must appoint an asset manager to manage the fund assets.

Asset managers must be licensed by the State Licensing Chamber to manage the assets of private pension funds. In order to obtain a license, the applicant must place at least the equivalent to USD 250,000 in MDL on a special account prescribed

by the National Bank of Moldova (NBM). This capital constitutes a reserve which is used to compensate for potential losses due to illegal actions or negligence of the asset manager. In addition, the own assets of the asset manager must not be less than 1% of the total value of the pension fund assets under management.

Of total assets invested:

- A 100% may be in cash deposits in banks that must be licensed by the NBM, not undergo any correction measures ordered by the NBM, or have a statutory capital of at least the equivalent to USD 5 million in MDL;
- A 100% may be in securities issued by the state;
- A maximum of 50% may be in securities issued by the state that are registered by the National Securities Commission and traded on the Moldavian stock exchange;
- A maximum of 15% may be in bonds issued by foreign governments and in indexed foreign investment funds that have a high international rating, provided that the NBM has issued an authorization to do so;
- A maximum of 5% may be in a single issuer.

Investments in any one issuer must not constitute more than 5% of the total value of the securities issued by this issuer.

Investment in property is not permitted.

Fund assets must not be invested in securities issued by:

- The founders (i.e. sponsoring employer(s), bank or insurance company) of the fund;
- The asset manager;
- The custodian;
- An affiliated person (e.g. companies related to the founders, asset manager or custodian).

Fund assets must be kept by a custodian.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Waiting periods depend on plan rules.

Customary plan rules cannot yet be observed.

Vesting rules

All plans: No legal rules.

Vesting depends on plan rules.

Customary plan rules cannot yet be observed.

Preservation, portability, transferability

All plans: Upon terminating employment before retirement, employees must have their accumulated capital transferred to either the closed or open pension fund of their new employer or an open pension fund with which they have concluded an individual pension agreement.

Retirement benefits

Benefit qualifying conditions

All plans: Benefits are payable when members reach the eligibility age for benefits under the social security scheme (varies between ages 49 and 62 depending on gender, career length and conditions of work).

Benefit structure / formula

All plans: Defined contribution.

Retirees may choose among:

- Receiving their accumulated capital as a lump sum;
- Transferring their accumulated capital to an account opened with the Social Insurance Fund that administers the social security scheme. In this case a pension benefit separate from the social security pension is paid by the Social Insurance Fund for a specified period. There are no legal rules for the calculation of this benefit;
- Purchasing a life annuity from an insurance company registered in the Republic of Moldova. In this case the pension fund must transfer the accumulated capital to the insurance company of the member's choice.

Benefit adjustment

All plans: No legal rules.

Survivors

All plans: Upon the death of a member, the accumulated capital is inherited by the deceased member's legal heirs who may receive it as a lump sum.

Disability

All plans: A member who is deemed to have a lifetime disability requiring constant attendance (Group I disability as defined under the social security scheme) may receive the accumulated capital as a lump sum.

Protection of Rights

Protection of Assets

All plans: Pension funds are independent legal entities that must hold assets separate from the assets of their founding employer(s), banks or insurance companies.

Pension fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

All plans: Pension funds must prepare annual financial statements that must be audited by an independent auditor and submitted to the State Inspection for Insurance and Nonstate Pension Fund Supervision.

Pension funds must, in addition, prepare annually, and publish in the press, a report on:

- The amount of capital accumulated by their members;
- Asset allocation;
- Fees.

Whistleblowing

All plans: No legal rules.

Standards for service providers

All plans: Custodians must be banks authorized by the National Bank of Moldova to accept individual's deposits. The signing, amendment and termination of custodian agreements must be carried out in coordination with the State Inspection for Insurance and Nonstate Pension Fund Supervision (SIINPFS).

Auditors must be individuals with higher education in finance, law and economics and hold a qualification certificate issued by the Attestation Commission established by the Ministry of Finance. This certificate confirms that an auditor has sufficient knowledge and qualification to audit pension funds. Auditors must be independent of the pension fund.

Fees

All plans: Administrative charges may be a maximum of 10% of the fund's investment income.

Winding up / Merger and acquisition

All plans: In the case of insolvency of an employer, the collective pension agreement between this employer, its employees and the fund (see section Institutional framework) is suspended. A new employer taking over the insolvent company may continue the pension agreement. If this is not the case, the employees receive their accumulated capital as a lump sum.

Pension funds may be wound up through a decision of the fund board after obtaining approval from the State Inspection for Insurance and Nonstate Pension Fund Supervision (SIINPFS), or by court decision upon request by the SIINPFS. There are no legal rules prescribing the reasons for which the SIINPFS may request the winding up of a pension fund.

Where a fund is wound up, the members receive their accumulated capital as a lump sum and there is no requirement to transfer it to another fund.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There is no requirement for funds to insure against financial loss, and no compensation fund exists.

Asset managers must use the reserve established when they obtain their licenses (See section Asset

management) to compensate for potential losses due to illegal actions or negligence in its activities.

Disclosure of information / Individual action

All plans: Pension funds must provide information to members quarterly on their accumulated capital.

Pension agreements (see section Institutional framework) must regulate a procedure for settling disputes between the pension fund and its members.

Other measures

All plans: Amendments to the charter of the fund may only be made after obtaining approval from the State Inspection for Insurance and Nonstate Pension Fund Supervision and must not reduce the status of fund members or restrict their rights.

Tax Treatment

Taxation of employee contributions

All plans: Employee contributions are tax-exempt if the total employer and employee contribution does not exceed 15% of salary.

Taxation of employer contributions

All plans: Employer contributions are tax-exempt if the total employer and employee contribution does not exceed 15% of salary.

Taxation of investment income

All plans: The tax treatment of investment income has not yet been regulated. It is envisaged that investment income will be tax-exempt.

Taxation of benefits

All plans: The tax treatment of benefits has not yet been regulated. It is envisaged that benefits will be taxed.

Regulatory and Supervisory Authorities

State Inspection for Insurance and Nonstate Pension Fund Supervision: Supervises open and closed pension funds and insurance companies. State Inspection for Insurance and Nonstate Pension Fund Supervision (SIINPFS) is an autonomous directorate of the Ministry of Finance.

The SIINPFS may request a court to wind up a pension fund.

Inspectoratul de Stat pentru Supravegherea
Asigurarilor si Fondurilor Nestatale de Pensii
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Internet: www.issa.md

Netherlands

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2000: Industry Pension Funds Act; authorizes the Minister for Social Affairs and Employment (MSAE) to make membership in an industry-wide pension plan compulsory for all employees in a particular industry if requested by a representative group of employers and employees.

1999: European Case law (*Albany/Brentjens Handelsonderneming/Drijvende Bokken*); concerns compulsory membership in industry-wide pension plans.

1987: Insurance Business Supervision Act; regulates the establishment, licensing and supervision of insurance companies; contains rules concerning investment and annual reporting.

1964: Wage Tax Act; defines criteria for the tax treatment of contributions.

1952: Pensions and Savings Funds Act; regulates the methods for implementing complementary occupational pension plans and makes them subject to the supervision of the Pensions and Insurance Supervisory Authority.

Plan Profile

Plan sponsors

Employer and employee representatives in a particular industry may, on a voluntary basis, establish an industry-wide pension plan through a collective agreement. Other employers in the industry may join the plan on a voluntary basis. The Minister of Social Affairs and Employment (MSAE) may declare an industry-wide pension plan compulsory for all employees in the respective industry on request of a representative group of employer and employee representatives who agreed to establish the pension plan.

Employers who are not part of an industry-wide pension plan may, singly or as a group and on a voluntary basis, establish a complementary occupational pension plan for their employees. Where the plan has not been based on negotiations with trade unions, it must be approved by the company's work council (if there is one).

Employer and employee representatives usually agree on complementary occupational pension plans as part of the wage bargaining process. Collective bargaining is well-developed and legislation gives an important role to employee representatives.

Members of a profession may establish profession-wide pension plans. The MSAE may make participation in a profession-wide pension plan compulsory for the profession as a whole on request of an organization or organizations representing the majority of the profession concerned.

Types of plans

Plan sponsors may choose between three types of plans allowed by the Pensions and Savings Funds Act.

Industry-wide pension plans: Employer and employee representatives in an industry may establish industry-wide pension plans that are implemented through industry-wide pension funds.

The Dutch Central Bank (*De Nederlandsche Bank* - DNB), in its capacity as supervisor, must be notified of the establishment of an industry-wide pension fund. Where it is intended to file a request to make the plan compulsory, the Minister of Social Affairs and Employment (MSAE) must be notified of the establishment of the fund. The notifications must be accompanied by:

- The deed of incorporation of the fund;
- The fund constitution;
- The plan rules;
- An agreement between the employers and the pension fund;
- An actuarial and technical report, unless the liabilities will be reinsured with a life insurance

company.

The DNB may request changes to these documents if they do not comply with legal requirements.

The MSAE may declare an industry-wide pension plan compulsory for all employees in the respective industry on request of a representative group of employers and employees who established the pension plan. In order to be considered representative, the employers supporting the request must employ at least 60% of the employees in the industry. No such percentage is prescribed for employee representatives. The authority to which the industrial branch concerned corresponds, the Labour Foundation (which is the central organization for consultation between employees and employers) and the DNB must be consulted. More than two-thirds of all industry-wide pension plans have been declared mandatory.

Even if the MSAE has declared a plan compulsory for all employees in an industry, employers may - at the discretion of the governing board of the respective industry-wide pension fund implementing the pension plan - be exempted from joining, or opt-out of, the industry-wide pension plan if they sponsor a similar or better plan, and if:

- They had already sponsored their own plan at least 6 months before the filing of the request to make the industry-wide pension plan compulsory;
- They are exempted from a binding industry-wide collective labour agreement because of the conclusion of a separate collective labour agreement; or
- The investment performance of the industry-wide pension fund is considered inadequate (which is the case if the average investment return is below a pre-set self-chosen benchmark for more than five years).

Company pension plans: Employers, either singly or as a group, may establish company pension plans that are implemented through company pension funds. Company pension plans may cover employees of more than one employer but single employer plans are the norm.

The DNB must be notified of the establishment of a company pension fund. The notification must be accompanied by:

- The deed of incorporation of the fund;
- The fund constitution;
- The plan rules;
- An agreement between the employer(s) and the pension fund;
- An actuarial and technical report, unless the liabilities will be reinsured with a life insurance company.

The DNB may request changes to these documents if they do not comply with legal requirements.

Group insurance plans: Employers, either singly or as a group, may establish group insurance plans that are implemented through a group insurance contract with a life insurance company. Group insurance plans must be authorized by the DNB and comply with almost all legal requirements applicable to plans implemented through the establishment of pension funds. They may cover employees of more than one employer but single employer plans are the norm.

All plans: Apart from compulsory industry-wide plans, there is no legal requirement for covered employees to become members of occupational pension plans, but plan rules usually make membership mandatory for covered employees.

Institutional Framework

Industry-wide and company pension plans: Pension plans are implemented through pension funds that are incorporated legal entities separate from the sponsoring employer(s) and that usually have the legal form of a foundation. Pension funds are nonprofit-making entities.

All pension funds must have a governing board consisting of an equal number of representatives of employers' organizations and trade unions in the case of industry-wide pension funds and of employer(s) and employees in the case of company pension funds. Pensioners may be represented on the board in which case the pensioner takes an employee seat. Plan rules may limit the influence of pensioners, but it is not allowed to make board membership of pensioners

impossible.

The governing board decides whether the contribution and benefit administration is managed internally or contracted to an external service provider. There are no specific legal requirements concerning these external service providers, however, the board remains ultimately responsible for the administration including the part carried out by external service providers. All decisions concerning the daily management must be made by at least two members of the governing board.

The De Nederlandsche Bank (DNB) may check the fitness and propriety of members of the governing board and disqualify them.

At the request of at least 5% of contributing members and pensioners, a board of participants on which contributing members and pensioners are represented must be established by a pension fund. This board of participants advises the governing board about some legally specified issues (e.g. amendments to the plan rules) and has the right to all information necessary to fulfil this duty. The governing board is not obliged to follow the advice, but it must in this case inform the board of participants and explain why its advice is not being followed.

Group insurance plans: The life insurance company manages the contribution and benefit administration.

Life insurance companies must be licensed by the DNB.

Coverage

All plans: Private- and public-sector employees including civil servants.

Compulsory industry-wide pension plans cover all employees in the respective industry, including private- and public-sector employees. In the case of all other plans, coverage is regulated in the plan rules. Under most plans, eligible employees must be aged 25 or older and be employed on a permanent basis. Employees whose salary does not exceed a certain limit may be excluded.

Plan rules must not discriminate between employees of the same category, but variations between different categories of employees are allowed. Part-time employees must not be excluded from membership of a plan. Discrimination between men and women is prohibited.

Members of a profession may establish profession-wide pension plans that are implemented through profession-wide pension funds. The Minister of Social Affairs and Employment (MSAE) may make participation in a profession-wide pension plan compulsory for the profession as a whole on request of an organization or organizations representing the majority of the profession concerned.

Financing / Investment

Sources of funds

Employee contributions

All plans: No legal rules.

Employee contributions are usually within the limits defined by tax rules (see section Taxation of employee contributions).

Employer contributions

All plans: No legal rules.

Employer contributions are usually within the limits defined by tax rules (see section Taxation of employer contributions).

Other sources of funds

All plans: A foundation (*Stichting Financiering Voortzetting Pensioenverzekering* - FVP) administered by employer and employee representatives contributes on behalf of certain unemployed persons who were members of an occupational pension plan before becoming unemployed. These contributions are not regulated by law but are based on the voluntary initiative of employer and employee representatives and are financed entirely by the foundation.

Contributions to complementary occupational pension plans are paid by the FVP on behalf of plan members over age 40 who have been laid-off

from work. The period of contribution payments depends on a member's entitlement to, and period of eligibility for, earnings-related unemployment benefits. For unemployed members above age 57 years and 6 months, contributions are paid until the plan retirement age.

The FVP will be closed to new entrants as from 1 January 2008 since the expenditures of the FVP exceed its income (which consists solely of investment income on the capital of the FVP).

Methods of financing

All plans: Funded.

Asset management

Industry-wide and company pension plans: The governing board may manage the assets in-house or contract the asset management to an asset manager. Credit institutions including banks, insurance companies or investment companies may be asset managers provided they hold a license in accordance with the Investment Services Act.

The prudent person rule (requirement to invest assets with the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others) applies.

Company pension plans: Of the total assets invested, a maximum of 5% may be in bonds and shares of (or loans to) the sponsoring employer(s). If a pension fund holds assets in excess of the required reserves, this limit may be increased to a maximum of 10% provided there are sufficient excess assets to cover it.

Group insurance plans: The life insurance company manages the assets.

The prudent person rule (see above) applies.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: Plan rules may provide for a waiting period and a minimum age for joining the plan (in practice age 25 is the highest minimum age). Plans usually allow service during the waiting period to count for persons who become plan members.

Vesting rules

All plans: Employer and employee contributions vest immediately.

In case members leave the pension plan within 1 year after joining it and previously accrued rights are not transferred into the plan, they receive a refund of their own contributions.

If the pension rights from a previous pension plan are transferred into a new plan, the pension rights in the new plan vest immediately.

Preservation, portability, transferability

All plans: If an employee changes to an employer participating in the same industry-wide plan, portability is automatic.

If no longer covered by the same plan, employees may opt to defer their accrued rights until retirement age, or to transfer them to the plan of their new employers. All plans must allow for transferability and must accept transfers-in.

In a defined contribution plan, the accrued rights are an employee's accumulated capital. In a defined benefit plan, an employee's accrued rights are the difference between the pension they would have received had they remained members until reaching retirement age, and the pension which they would receive based on the period from the date at which their employment terminated until retirement age.

After terminating employment with their former employers, employees must be informed promptly by their former and their new employers about the possibility of transferring their pension rights. The

employee may request an actuarial calculation of the rights that can be acquired in the new employer's pension plan through a transfer. Within two months of receiving this calculation, the employee must decide, based on the comparison of the rights under the old and the new plans, whether or not to request a transfer.

There is no legal requirement to index preserved rights. However, if a pension plan provides for adjustment of pensions in payment it is legally obliged to index preserved rights on an equivalent basis.

Retirement benefits

Benefit qualifying conditions

All plans: Depending on the plan rules, retirement age may be between 55 and 70.

Benefit structure / formula

All plans: Benefits must be paid as pensions (regular income stream) for life.

Compulsory industry-wide pension plans are all defined benefit plans, otherwise plans may be defined benefit or defined contribution.

Plans are integrated with the social security scheme by excluding a part of salary from the calculation of pensionable earnings for the purpose of accruing rights under the occupational plan. This part of the salary is known as the franchise and the amount is derived from the level of benefits under the social security scheme. Pensionable earnings are the member's average career or final salary (see below) minus the franchise.

In defined benefit plans, tax rules limit the accrual rate to a maximum of 2% a year if pensionable earnings are based on final salary and to 2.25% a year if the calculation is based on average career salary.

In defined contribution plans, tax rules define maximum contribution rates that vary with the age of the member and the plan retirement age in order to produce similar pensions as under defined benefit plans.

The usual total benefit target (including social security benefits) is 70% of final salary. Defined benefit plans thus usually have an accrual rate of 1.75% a year based on a service period of 40 years.

Benefit adjustment

All plans: No legal rules.

Most pension plans provide for benefit adjustments at the discretion of the pension fund's governing board.

Survivors

All plans: Survivor pensions are usually provided and are equal to a percentage of the deceased member's actual or projected retirement pension.

Discrimination between widows and widowers is prohibited. Some plans reduce the pension if the surviving spouse is more than 10 years younger than the deceased plan member. However, the Commission for Equal Treatment (*Commissie Gelijke Behandeling* - CGB) has concluded that this reduction leads to indirect discrimination against women. The CGB has made a (nonbinding) recommendation that the reduction should no longer be applied. However, there are no indications yet that this recommendation is being implemented.

Disability

All plans: Disability benefits are sometimes provided. If provided they are integrated with social security benefits. Eligibility under the occupational plan is based on the degree of incapacity as defined under the social security scheme.

Plan membership and benefit accrual continues during disability until the normal plan retirement age.

Protection of Rights

Protection of Assets

Industry-wide and company pension plans: Plan assets must be held by a pension fund completely separate from the assets of the sponsoring employer(s).

Group insurance plans: Plan assets must be held by the insurance company completely separate from the assets of the sponsoring employer(s).

Financial and Technical Requirements / Reporting

Industry-wide and company pension plans: There are two possibilities with regard to the financial assessment of a pension fund: the old rules and the FTK (*Financieel Toezichtskader*) rules. In October 2004, the De Nederlandsche Bank (DNB) issued a policy note that contained both these possibilities. Pension funds may choose to apply the FTK rules instead of using the old rules. Funds which choose the FTK rules cannot revert to the old rules. The FTK rules are expected to be made mandatory for all pension funds from January 2007.

The old rules

Under the old rules, pension funds' technical provisions must be sufficient to cover the benefit obligations calculated on a fixed interest rate of 4% or less.

The calculation of the technical provisions must comply with the Pension Fund Actuarial Principles issued by the DNB and be based on prudent methods and assumptions. In applying such methods and bases, the investment policy, the policy of adjusting pensions in payment, the (future) level of contributions and (future) costs, the consequences of future developments regarding salaries, prices or wages, mortality, admissions and membership termination must be taken into consideration.

Pension funds must hold excess assets as an investment cushion in order to protect vested rights against adverse price movements of assets. The level of such a cushion depends on the actual composition of the investment portfolio and historical evidence of adverse market price movements.

The FTK rules

Under the FTK rules, the pension funds' technical provisions must be sufficient to cover their benefit obligations calculated on actual market interest rates.

The calculation of the technical provisions must comply with the rules in the DNB policy note issued 21 October 2004 and be based on prudent methods and assumptions. In applying such methods and bases, the investment policy, the policy of adjusting pensions in payment, the (future) level of contributions and (future) costs, the consequences of future developments regarding salaries, prices or wages, mortality, admissions and membership terminations must be taken into consideration.

Pension funds must hold excess assets as an investment cushion in order to protect vested rights against adverse price movements of assets. The level of such a cushion depends on the actual composition of the investment portfolio and the effects that certain (adverse) market price movements will have on the actual value of both the assets and the obligations of the pension fund.

Pension funds, regardless of the financial assessment method adopted, must submit supervisory returns to the DNB before 1 July following the end of each financial year. The supervisory return must be certified by an auditor and include:

- A balance sheet;
- A profit and loss account (including details on contributions, benefits etc.);
- An investment report;
- A report on the technical provisions;
- An actuarial report;
- An analysis of technical results.

Pension funds with a turnover (contributions and investment income) of EUR 7 million or more must disclose their annual accounts.

Group insurance plans: Life insurance companies must periodically provide certain legally specified information to the DNB.

Whistleblowing

All plans: The auditor and the actuary must inform the De Nederlandsche Bank (DNB) about relevant circumstances related to legal requirements and fund obligations and must submit all information which may be necessary for the tasks of the DNB.

Standards for service providers

All plans: No legal requirements for auditors or actuaries. The De Nederlandsche Bank (DNB) may oppose the appointment of auditors or actuaries in case of doubt concerning their suitability. Members of professional groups are usually appointed in order to ensure professionalism.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All plans: The De Nederlandsche Bank (DNB) supervises the protection of rights in the case of winding up, merger and acquisition.

Bankruptcy: Insolvency Insurance / Compensation Fund

Industry-wide and company pension plans: Where the De Nederlandsche Bank (DNB) deems it necessary in the interest of contributors, members with deferred rights, pensioners and other parties involved, it may require a pension fund to reinsure its liabilities with a life insurance company.

Group insurance plans: No legal rules.

Disclosure of information / Individual action

All plans: On becoming members of a pension plan, employees must be informed about the plan rules.

Members must be informed annually of:

- Changes to the plan rules;
- Their vested rights;
- The rights they would accrue if they were to continue membership until retirement.

Members must be informed about the plan rules or their vested rights at any time on request.

Industry-wide and company pension plans: There is no legal requirement to make the supervisory returns (see section Financial and technical requirements / Reporting) available to members, but plan rules often stipulate that some financial information about the pension fund will be made available to members. Larger pension funds must disclose their annual accounts to their members.

The board of participants (see section Institutional framework) may complain to the De Nederlandsche Bank (DNB) about certain legally specified issues in which case an investigation must be carried out.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: In defined benefit plans, contributions are deductible from taxable income insofar as the annual accrual rate (including social security benefits) does not exceed 2% of the final, or 2.25% of the career average, salary.

In defined contribution plans, tax rules define maximum contribution rates that are deductible from taxable income and that vary with the age of the member and the plan retirement age in order to produce similar benefits as under defined benefit plans.

Taxation of employer contributions

All plans: In defined benefit plans, contributions are deductible from the company's pre-tax profits as business expenses insofar as the annual accrual rate (including social security benefits) does not exceed 2% of the final, or 2.25% of the career average, salary.

In defined contribution plans, tax rules define maximum contribution rates that are deductible from pre-tax profits and that vary with the age of the member and the plan retirement age in order to produce similar benefits as under defined benefit plans.

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

All plans: Taxed as income.

Regulatory and Supervisory Authorities

The Dutch Central Bank (De Nederlandsche Bank):
Supervises pension funds and insurance companies (as well as banks and insurance institutions).

The De Nederlandsche Bank (DNB) may:

- Check the fitness and propriety of members of the governing board of supervised entities and disqualify them;
- Request members of the governing board and employees of supervised entities to provide information;
- Raise objections to actuaries and auditors;
- Access books and records of supervised entities or a sponsoring employer;
- Issue orders to supervised entities.

The DNB is an independent body financed by fees paid by supervised institutions.

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Portugal

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Regulatory Framework

2002: Law No. 32; approves the basis of the social security system and defines general principles for complementary occupational pension plans.

2002: ISP Rule 21; defines requirements for the diversification of pension fund assets.

2002: Decree-Law 8-C; amends Decree-Law 94-B/98 to strengthen the supervisory powers of the Portuguese Insurance Institute over insurance companies in accordance with Decree-Law 289/2001.

2001: Decree-Law 292; strengthens the supervisory powers of the Portuguese Insurance Institute over pension funds in accordance with Decree-Law 289/2001.

2001: Decree-Law 289; defines the role and powers of the Portuguese Insurance Institute (replaces Decree-Law 251/97).

1999: Decree-Law 475; governs the establishment and supervision of pension funds and pension fund management companies and contains rules concerning protection of rights, applies also to all pension funds established prior to the introduction of the Decree if this does not result in the reduction or cancellation of rights or expectations acquired under previous legislation.

1999: Decree-Law 428; regulates the safeguarding of rights under complementary occupational pension plans by employed and self-employed persons moving within the European Union.

1998: Decree-Law 94-B; governs the establishment and supervision of insurance companies and contains rules concerning protection of rights.

1997: Decree-Law 307; imposes equal treatment of men and women under complementary occupational pension plans.

Individual Income Tax Code (IRS) and Corporate Tax Code (IRC); regulate the tax treatment of contributions, investment income and benefits.

Tax Benefits Act; regulates issues related to tax deductions and exemptions.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis a complementary occupational pension plan for their employees.

Plans may result from bargaining at the company level between employer and employee representatives. Industry-wide pension plans may be based on a collective agreement between trade unions and employers' associations.

Profession-wide associations of self-employed persons may, on a voluntary basis, establish a pension plan for their members.

Types of plans

All plans: Pension plans are not subject to approval.

Plan membership is voluntary for covered employees.

Pension plans can either be implemented through pension funds or contracts with an insurance company. In the former case, plan sponsors can choose either to establish a closed pension fund or to adhere to an open pension fund.

Closed pension funds: Plans may be implemented through the establishment of a closed pension fund.

Closed pension funds may be established at the initiative of employers, either singly or as a group, or by agreement between employers' associations and trade unions. A closed pension fund consists solely of the assets of the plan that it implements and is only related to the sponsor(s) of this plan. If several employers sponsor a plan to be implemented through the establishment of a closed pension fund, a business

or associative connection between them is required. A business connection between employers exists if they belong to the same financial group and an associative connection exists if they belong to the same industry's employers' association.

Closed pension funds must be established through a constituting contract between the plan sponsor(s) and a pension fund management or a life insurance company (pension fund managers) that must, among other things, regulate:

- Fund management rules;
- If the implemented plan is contributory, rules for representation of members and pensioners;
- Rules governing the rights of members upon termination of employment before retirement;
- Rules governing the rights of members and pensioners in the case of the fund being wound up;
- Whether loans can be granted to members.

A management contract must be signed between the plan sponsor(s) and the pension fund manager that must, among other things, regulate:

- The investment policy;
- Whether a minimum rate of return is guaranteed and whether the pension fund manager or the plan sponsor(s) bear the investment risk in this case.

The pension fund manager and the plan sponsor(s) must submit a joint request for authorization of the closed fund to the Portuguese Insurance Institute (*Instituto de Seguros de Portugal* - ISP). In the case of a pension fund implementing a defined benefit or hybrid plan, a technical and actuarial plan must also be submitted for authorization.

Open pension funds: Plans may be implemented by affiliating covered employees to an open pension fund established by a pension fund management or a life insurance company (pension fund managers) through buying units in the open fund. Open pension funds are open to the assets of more than one plan.

The open pension fund manager must submit a request for authorization of the open fund to the ISP together with the management regulations that must, among other things, regulate:

- Method of calculating units;
- Investment policy;
- Whether a minimum rate of return is guaranteed and if so, how it is to be calculated;
- Circumstances under which the fund can be wound up;
- The maximum management fee and maximum and minimum limits on unit issuing and redemption fees.

Direct insurance: Plans may be implemented through insurance contracts with a life insurance company.

Institutional Framework

All pension funds: Both closed and open pension funds are autonomous patrimonies devoid of legal personality that are managed by pension fund management or life insurance companies (pension fund managers). Pension fund managers are responsible for the management of the contribution and benefit administration and the investment of fund assets.

Pension fund management and life insurance companies must be incorporated as limited liability companies. Incorporation is subject to authorization by the Portuguese Insurance Institute (ISP). Pension fund management companies must have the single business aim of managing pension funds.

Pension fund managers must be governed by a board of directors and a general assembly.

In the case of contributory plans implemented through closed pension funds, the constituting contract between the pension fund manager and the plan sponsor(s) must provide for representation of members and pensioners in the administration of the fund. There are no legal rules concerning the form and extent of this representation or concerning the rights and powers of the commission and both depend on the constituting contract. Members' and pensioners' representation is not compulsory in the case of noncontributory plans.

Direct insurance: The contribution and benefit administration and the investment of plan assets are managed by the life insurance company.

Life insurance companies must be incorporated as limited liability companies. The incorporation is subject to authorization by the ISP.

Coverage

All plans: Private- and public-sector employees.

Favourable tax treatment rules require that pension plans cover all employees with a permanent contract after the probationary period of 6 months. Employees with short-term contracts of up to 2 years may be excluded from coverage. A minimum age requirement of 21 applies under most plans. Discrimination between men and women is prohibited.

Profession-wide associations of self-employed persons may, on a voluntary basis, establish a pension plan for their members that can be implemented through the establishment of a closed pension fund, adhesion to an open pension fund or direct insurance. Self-employed persons may also join open pension funds on a personal basis.

Financing / Investment

Sources of funds

Employee contributions

All plans: No legal rules.

Employee contributions depend on plan rules.

Most plans are noncontributory.

Employer contributions

All plans: No legal rules.

Employer contributions depend on plan rules.

Employer contributions to defined contribution plans are usually around 3% of salary. In the case of defined benefit plans, contributions depend on funding requirements.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Asset management

All pension funds: Fund assets are managed by the pension fund managers that are also responsible for the contribution and benefit administration (see section Institutional framework).

The pension fund manager must take the type of liability into account when deciding the investment portfolio in order to guarantee security, appropriate returns and necessary liquidity.

The Pension Insurance Institute (ISP) has issued asset management restrictions and of total assets invested a maximum of:

- 55% may be in shares;
- 50% may be in real estate (directly or indirectly) including loans to members;
- 30% maybe in assets denominated in currencies other than the currency in which liabilities are denominated;
- 25% may be in land or buildings used by the sponsoring employer(s) or by companies that have a controlling ownership of, or group relationship with, them (without prejudice to the second limit above);
- 20% may be in securities issued by, and loans made to, companies that have between them, or with the pension fund manager, a controlling ownership or group relationship, including bank deposits in credit institutions in an identical relationship;
- 15% may be in bonds and shares unquoted or quoted in stock markets of nonOECD member countries;
- 10% may be in securities and short-term debt instruments issued by a single company and credits resulting from loans granted to this company;
- 5% may be in units of nonharmonized collective investment institutions.
- 5% may be in quoted securities issued by sponsoring employer(s) or by companies that have a controlling ownership of, or group relationship with, them.

Fund assets must not be invested in unquoted securities issued by the sponsoring employer(s) or by companies that have a controlling ownership of, or group relationship with, them.

Fund assets must not be invested in securities issued by the pension fund manager and in unquoted securities issued by companies that are represented on its governing bodies or that have a controlling ownership of, or group relationship with, the pension fund manager.

Pension fund managers must not, by means of investment of the assets of one pension fund, hold more than 10% of the share capital or the voting rights of a single company. In addition, pension fund managers must not, by means of investment of the assets of all pension funds under their management, control more than 20% of the share capital or the voting rights of a single company or be able to exercise significant influence over the management of a company.

A minimum guaranteed rate of return may be defined in the management contract in the case of closed funds and in the management regulations in the case of open funds.

Pension fund assets must be kept by a custodian that has the following functions to:

- Receive on deposit or register financial instruments and documents representing the assets making up pension funds;
- Maintain up-to-date chronological records of all operations and prepare a quarterly inventory of the items with which they have been entrusted;
- Undertake the purchase and sale of financial instruments and exercise subscription and option rights;
- Collect the earnings produced by the fund's investments and cooperate with the pension fund manager in carrying out asset operations.

Direct insurance: Assets are managed by the life insurance company that is also responsible for the contribution and benefit administration.

Detailed restrictions on the investment of assets covering technical provisions of life insurance companies apply.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Waiting periods depend on plan rules based on the type and length of employment contract. A waiting period of 6 months (equal to the probationary period) usually applies.

Most plans provide for a minimum age requirement of 21.

Vesting rules

All plans: No legal rules.

Vesting depends on plan rules and is usually restricted to certain professional sectors (e.g. banking and insurance).

If employment is terminated and contributions are not vested, members of a contributory plan are entitled to a deferred refund of their own contributions that becomes payable at retirement age. There are no legal requirements for interest to be paid on contributions. Members may at any time receive a refund of their own contributions in the cases of long-term unemployment, serious illness or permanent disability. Refunds may be paid on one or several occasions.

Preservation, portability, transferability

All plans: No legal rules.

Portability may be possible under industry-wide plans in accordance with collective agreements.

Upon termination of employment before retirement and if portability is not possible, vested rights are usually deferred.

There are no legal requirements for deferred rights to be indexed.

Retirement benefits

Benefit qualifying conditions

All plans: Favourable tax treatment rules require that benefits are payable when a member is eligible for social security benefits. Most plans have equalized their originally gender specific retirement ages to age 65 for both men and women in line with the equalization of the social security retirement age.

Early retirement with actuarially reduced benefits is possible from age 55 for both men and women. If early retirement is taken under the social security scheme with an actuarially reduced social security pension, the member may nevertheless opt to receive the complementary occupational benefit from a date not later than the normal plan retirement age. Deferred retirement is not usually possible.

Benefit structure / formula

All plans: Defined contribution, defined benefit or hybrid. While plans have traditionally been defined benefit, more recent plans are often defined contribution and also many older plans have switched to defined contribution.

Defined benefit plans have usually been integrated with the social security scheme by deducting the social security benefit from the complementary occupational pension benefit (i.e. benefit offset). The total benefit target (i.e. from social security and the complementary plan) has usually been 80% of final salary. More recent defined benefit plans are often nonintegrated and provide benefits of between 10% and 20% of final salary.

The maximum recognized service period is 40 years. The annual accrual rate is therefore usually 2% in the case of integrated plans and 0.5% in the case of nonintegrated plans. Final salary is usually defined as the total fixed salary (without bonuses and commissions) during the last year of service.

Benefits are generally paid as pensions, but, upon request of the retiree and if the plan provides for this option, up to one-third of the capital accumulated, or the benefits accrued, by employer contributions may at retirement be paid as a lump sum. The part of the capital accumulated, or the benefits accrued, by employee contributions under a contributory plan can always be paid as a lump sum.

The total accumulated capital or accrued benefits are paid as a lump sum if the monthly pension would be less than one-tenth of the national minimum wage and if the pension fund manager, the sponsoring employer(s) and the retiree agree.

The national minimum wage is EUR 450 as of January 2006.

Benefit adjustment

All plans: No legal rules.

Increases in pensions in payment are granted on a discretionary basis by plan sponsor (s) and are usually in line with wage increases.

Survivors

All plans: No legal rules.

Nearly all plans provide a lump sum of two times the deceased member's annual salary (increased to four times if the death was caused by accident and sometimes to six times in the case of work accident) financed through a separate insurance contract.

Where defined benefit plans provide for survivor pensions, the pension is usually 60% of the deceased member's accrued old-age pension and is paid in addition to the lump sum.

In the case of defined contribution plans, survivors usually receive the deceased member's accumulated capital as a lump sum in addition to the lump sum mentioned above.

The total benefits are usually split between eligible survivors as under the social security scheme:

- One orphan receives 20%;
- Two orphans receive 30%;
- Three or more orphans receive 40%;
- The spouse receives the benefits remaining after the orphans' benefits are paid.

Disability

All plans: No legal rules, except that permanently disabled members of a contributory defined benefit or hybrid plan are entitled to a refund of their own contributions.

Many plans provide a lump sum of two times the disabled member's annual salary (increased to four times if disability was caused by accident) financed through a separate insurance contract. Some defined benefit plans increase social security benefits instead of paying this lump sum.

In the case of defined contribution plans, disabled members usually receive the accumulated capital as a lump sum in addition to the lump sum mentioned above.

Protection of Rights

Protection of Assets

All plans: Assets are held by the pension fund management or life insurance company separate from the assets of the sponsoring employer(s).

All pension funds: Pension fund assets may only be used for satisfying pension claims and for paying management and custodian fees. The assets must not be used to meet any other obligations, namely those of the sponsoring employer(s), pension fund managers and custodians. It is also prohibited to offer pension fund assets to third parties as a guarantee or to grant credit on behalf of a pension fund unless it is a loan to plan members provided for in the plan rules.

Fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

All pension funds: Pension fund assets must at all times be sufficient to cover the present value of pensions in payment and of past service liabilities calculated based on current salaries. Actuarial funding standards are defined in regulations laid down by the Portuguese Insurance Institute (ISP) and require pension fund managers to use the mortality table TV 73/77 and an interest rate of 4.5%.

In the case of over funding, the ISP may authorize the return of the surplus to the sponsoring employer(s). In the case of underfunding, the pension fund manager must, together with the sponsoring employer(s), establish a funding plan and submit half-yearly progress reports to the ISP. If funds are insufficient to pay pensions in payment the pension fund manager must request the sponsoring employer(s) to make the necessary additional contributions. If the contributions are not made within 180 days, the fund is wound up.

Pension fund managers must have a solvency margin and a guarantee fund. The solvency margin must be at least 1% of the value of all pension funds under management. Where a guaranteed rate of return is granted and the pension fund manager bears the investment risk, the solvency margin must be at least 4% of the value of managed pension funds. The guarantee fund must be one-third of the solvency margin.

If the solvency margin is found to be insufficient, the pension fund manager must submit a short-term financing plan to the ISP.

The assets representing the solvency margin and the guarantee fund must be used if a minimum guaranteed rate of return is to be granted and the pension fund manager cannot achieve this rate of return (in the case that the pension fund manager takes on the investment risk - see section Types of plans) or if there is a misappropriation of funds.

Pension fund managers must appoint an actuary to prepare separate annual actuarial reports for each defined benefit and hybrid plan managed. The pension fund manager must submit the reports to the ISP.

Pension fund managers must submit annual accounts to the ISP. Annual accounts must be duly certified by an auditor and include copies of the management report, balance sheet, profit and loss account and any other financial statements.

Direct insurance: The solvency and reporting requirements applicable to life insurance companies, in the case of plans implemented through insurance

contracts, are regulated in EU Directives.

Whistleblowing

All plans: No legal rules.

Standards for service providers

All plans: Custodians must be credit institutions established in Portugal.

No legal requirements for auditors.

Actuaries must be registered with the Portuguese Insurance Institute (ISP). In order for this registration to be granted, they must fulfil certain requirements concerning education and professional experience.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All pension funds: The winding up of pension funds is subject to the authorization of the Portuguese Insurance Institute (ISP).

If a pension fund is wound up and assets are insufficient to cover all liabilities, the claims are satisfied in the following order:

- Management and custodian fees and other expenses related to the fund;
- In the case of contributory plans, the refund of members' own contributions;
- Pensions in payment;
- Vested rights;
- Funds accumulated to guarantee the increase of pensions in payment.

The winding up of a pension fund manager or a sponsor must not result in the winding up of the fund. Management of the fund by another qualified entity must be guaranteed before a pension fund manager may be wound up.

Direct insurance: The winding up of insurance companies is subject to the authorization and supervision of the ISP.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There is no requirement to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

All plans: The plan sponsor(s) must provide the members with information concerning the plan.

Members of a contributory plan have the right to receive at least once a year information on the amount of contributions made by them and on their behalf and on their accrued rights.

Plan members may lodge complaints about actions of pension fund management and insurance companies with the Portuguese Insurance Institute (ISP) which receives, examines and gives an opinion on these complaints. The ISP may take legal action in defence of pension fund members' interests.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: 20% of employee contributions are tax-deductible up to a maximum of:

- EUR 400 per year for persons aged less than 35 years;
- EUR 350 per year for persons aged between 35 and 50 years;
- EUR 300 per year for persons aged more than 50 years.

Taxation of employer contributions

All plans: In order for employer contributions to receive favourable tax treatment (i.e. EET tax treatment) the plan must comply with the following requirements:

- Cover all permanent employees;
- Calculate benefits objectively and equally for all members;

- Pay benefits from the social security retirement age.

In plans that comply with these requirements and that do not provide for vesting, employer contributions are tax-deductible up to a limit of 5% of salary (25% if the employee is not covered by the social security scheme). Employer contributions in plans that do provide for vesting are fully tax-deductible.

Employer contributions in plans not providing vesting are not taxable as fringe benefits for employees. Employer contributions in plans providing vesting are taxable as fringe benefits for employees if they exceed 15% of salary (25% if the employee is not covered by the social security scheme).

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

All plans: Taxable pension income (see below) is exempt from income tax if, together with social security pensions, it does not exceed EUR 7,500 per year. The pension income exceeding this limit is subject to income tax.

Pension benefits are only considered as taxable pension income if the contributions were tax-deductible for the employee (employer contributions in plans not providing vesting). If contributions were taxed (vested rights), only that part of the pension which constitutes interest is considered as taxable pension income. The interest component is assumed to be 35% of the pension if it is not possible to exactly separate contributions and interest.

Lump-sum benefits are, for tax purposes, divided into contribution and interest components.

If contributions were taxed, the entire contribution component is tax-exempt. If contributions were tax-deductible (employer contributions in plans not providing vesting), one-third of the contribution component is tax-exempt up to the limit of EUR 11,704.70 per year.

If contributions were taxed, the interest component is taxed at 8%. If contributions were tax-deductible, the interest component is taxed at 20% on condition that the contributions made in the first half of the contract represent less than 35% of the total contributions, otherwise, the interest component is taxed at 16% if the retiree has been a member for between 5 and 8 years or at 8% if the retiree has been a member for more than 8 years. If the retiree has been a member of the plan for less than 5 years, the interest component is taxed at 20%.

Regulatory and Supervisory Authorities

Portuguese Insurance Institute: Authorizes the establishment of pension fund management companies, insurance companies and open and closed pension funds and supervises their compliance with legal requirements.

The Portuguese Insurance Institute (ISP) has the powers to:

- Review annual accounts of pension fund management and insurance companies and impose adjustments if necessary;
- Monitor the activities of pension fund management and insurance companies and control their compliance with legal requirements;
- Inspect pension fund management and insurance companies whenever it deems appropriate, request information and documents and conduct investigations and examinations of any entity at any location;
- Receive, examine and give an opinion on requests for information and complaints lodged by individuals and take legal action in defence of pension fund members' interests.

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Portugal
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Slovak Republic

Exchange rate: USD 1.00
equals 32.03 koruna (SKK)

Regulatory Framework

2004: Act No. 650 (amended by Act No. 747/2004) on Supplementary Pension Saving; transforms the Complementary Pension Insurance Scheme into the Supplementary Pension Saving Scheme; regulates the establishment of supplementary pension plans and the establishment, licensing and operation of supplementary pension insurance companies.

Plan Profile

Plan sponsors

Supplementary pension insurance companies establish supplementary pension plans and are free to offer them to employers, employees and every natural person over age 18.

Complementary pension insurance companies operating when the reform law entered into effect in 2005 have until June 2007 to transform into supplementary pension insurance companies. They require a license from the National Bank of Slovakia (*Národná banka Slovenska* - NBS) to manage supplementary pension plans.

Occupational arrangements for the participation of employers and employees in a plan and the amount of employer contributions are usually based on company collective agreements.

Employees and all natural persons over age 18 may become members of a supplementary pension plan offered by a supplementary pension insurance company on an individual basis without the participation of their employers.

Types of plans

Supplementary pension insurance companies offer open supplementary pension plans the membership of which must not be restricted to any specific category of employees.

Employers and employees are required to sign a contract with a supplementary pension insurance company in order to participate in an open pension plan (both employers and employees must conclude separate contracts with the company). The pension plan's characteristics form part of the contracts.

No license or authorization is required for the establishment of a pension plan, but supplementary pension insurance companies must be licensed (see section Institutional framework).

All supplementary pension plans are defined contribution plans.

Participation is voluntary for covered people.

Institutional Framework

Supplementary pension plans: Supplementary pension insurance companies are profit-making entities established by shareholders with the sole purpose of establishing and managing supplementary pension plans.

The establishment of a supplementary pension insurance company is subject to a license issued by the National Bank of Slovakia (NBS). In order to obtain a license, supplementary pension insurance companies must comply with legal requirements and submit financial plan details concerning their investment policy. After obtaining the license, the supplementary pension insurance company is registered with the NBS.

Complementary pension insurance companies operating when the reform law entered into effect in 2005 have until June 2007 to transform into supplementary pension insurance companies. They must also be licensed by the NBS.

Each supplementary pension insurance company must have a board of directors to manage, and a supervisory board to control, its business activities. They must also have an authorized agent and a

supervisor of internal control. Members of the board of directors and of the supervisory board, authorized agents and supervisors of internal control must not have any conflict of interests.

Supplementary pension insurance companies manage the contribution and benefit administration.

Coverage

Supplementary pension plans: Participation in the Supplementary Pension Saving Scheme is mandatory for employees working as performing artists such as dancers and for employees working in occupations harmful to health. They must sign contracts to participate in a supplementary pension plan and their employers must sign employers' contracts with a supplementary pension insurance company.

All other employees and natural persons over age 18 may participate in supplementary pension plans on a voluntary basis.

Occupational arrangements for the participation of employers and employees in a plan are usually based on company collective agreements.

Self-employed persons, employees whose employers do not contribute to a plan on their behalf and all other natural persons may join a plan on an individual basis.

There is a general prohibition of any discrimination based on gender, age, categories of workers and working hours.

Financing / Investment

Sources of funds

Employee contributions

Supplementary pension plans: Plans are contributory.

Employees' contributions usually equal the maximum tax-deductible contribution (see section Taxation of employee contributions).

Employer contributions

Supplementary pension plans: The contribution rate is agreed in a contract between the employer and the supplementary pension insurance company.

The minimum contribution rate on behalf of compulsorily covered employees (See section Coverage) is 2% of the employees' assessment base.

Other sources of funds

Supplementary pension plans: None.

Methods of financing

Supplementary pension plans: Funded in individual accounts.

Asset management

Supplementary pension plans: Plan assets must be managed by the supplementary pension insurance company.

The investment strategy must not endanger the rights of plan members and beneficiaries (i.e. principle of minimum risk).

Supplementary pension insurance companies must establish and manage at least two supplementary pension funds.

Plan assets may be mainly invested in:

- State bonds;
- Treasury bills;
- Obligations issued by the National Property Fund (a state privatization agency);
- Bank deposits;
- Bonds;
- Equities traded on regulated markets.

Certain legal investment limits apply, the most important of which are that of total plan assets invested:

- A maximum of 50% may be in securities issued or guaranteed by the Slovak Republic and must be spread among at least 6 securities of which the value of a single security must not exceed 30% of total plan assets;

- A maximum of 25% may be in securities issued or guaranteed by a single EU member state;
- A maximum of 15% may be in mortgage bonds issued by a single mortgage bank incorporated in the Slovak Republic or another EU member state;
- A maximum of 10% may be in securities issued by the sponsoring employer or by a company belonging to the same group or in any other way closely related to the sponsoring employer;
- A maximum of 5% may be in securities or money market instruments issued by a single issuer.

Furthermore:

- A maximum of 15% of the assets of the supplementary pension insurance company and the plan assets it manages may be in securities and money market instruments issued by one issuer;
- A maximum of 10% of a company's nominal shares may be held by a plan and the supplementary pension insurance company responsible for investing those plan assets must not exercise significant influence (i.e. voting rights) over the management of the issuer;
- Plan assets may not be used to provide loans or other credit of any kind nor may plan assets be used to obtain financial loans or credits to the supplementary pension insurance company responsible for managing those plan assets.

Supplementary pension insurance companies must have sufficient financial liquidity (see section Protection of rights, Financial and technical requirements / reporting).

Plan assets must be kept by a custodian.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Supplementary pension plans: No waiting period for membership.

Vesting rules

Supplementary pension plans: Employee and employer contributions vest immediately.

Preservation, portability, transferability

Supplementary pension plans: Upon terminating the contract with the supplementary pension insurance company before retirement, the member's accumulated capital is either:

- Preserved in the plan;
- Transferred to another plan (plans must accept transfers-in);
- Paid as a lump sum (i.e. cessation payment) provided that the member's length of contributions is shorter than the years of contributions required for a retirement benefit (see section Retirement benefits, Benefit qualifying conditions) and a transfer to another plan has not been requested by the member. The lump sum must equal at least 80% of the member's accumulated capital.

Retirement benefits

Benefit qualifying conditions

Supplementary pension plans: Benefits are payable from age 55.

Plans require members to have at least a minimum of 10 years of contributions in order to be eligible for a supplementary benefit.

Benefit structure / formula

Supplementary pension plans: Defined contribution.

Benefits depend on plan rules but supplementary pension insurance companies must provide at least the following kinds of benefits:

- Temporary pension;
- Lump sum of a part of the accumulated capital upon written request of the retiree;
- Special old-age pension for employees who worked as performing artists such as dancers or those working in occupations harmful to health for a period defined in the plan;
- Cessation payment when a member has less than 10 years of contributions.

There are no legal requirements to purchase an annuity, but the law allows annuitization of individual pension savings.

Benefit adjustment

Supplementary pension plans: No legal rules.

Benefits are not usually indexed.

Survivors

Supplementary pension plans: There are no legal rules except that a lump sum equal to 100% of the balance of the deceased member's or beneficiary's account is paid to persons nominated by the member or beneficiary.

The supplementary pension insurance company can sign a separate contract with an insurance company to provide benefits in the case of death of the member. It may also undertake this insurance if it has been licensed by the National Bank of Slovakia (NBS) to carry out activities as an insurance agent.

Disability

Supplementary pension plans: There are no legal requirements concerning disability benefits except that plan members who become disabled receive 100% of their accumulated capital as a lump sum.

The supplementary pension insurance company can sign a separate contract with an insurance company to provide benefits in the case of disability of the member. It may also undertake this insurance if it has been licensed by the National Bank of Slovakia (NBS) to carry out activities as an insurance agent.

Protection of Rights

Protection of Assets

Supplementary pension plans: Supplementary pension insurance companies must hold plan assets separate from their own assets.

Plan assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

Supplementary pension plans: Supplementary pension insurance companies must have sufficient financial liquidity and their own capital must be at least SKK 50,000,000.

Supplementary pension insurance companies must publish on their websites an evaluation report of the assets under management, provide information about mergers, transfer of the administration, the value of their own capital, the statutes of the company, the net asset value of supplementary pension plans, annual financial statement including a balance sheet and other information concerning the financial and economic situation of the company.

The supplementary pension insurance companies must submit the following documents to the National Bank of Slovakia (NBS):

- A detailed report on the purchase and sale of assets;
- Information about expenditures and fees;
- Information about the wages of the board of directors and the supervisory board members;
- A list of members and beneficiaries;

Financial statements must be audited by an independent auditor.

In addition, supplementary pension insurance companies must provide all necessary information and explanations concerning their activities upon request of the supervisory authorities.

Whistleblowing

Supplementary pension plans: No legal rules.

Standards for service providers

Supplementary pension plans: Custodians must be banks licensed by the Ministry of Finance with headquarters in the Slovak Republic.

Auditors must be members of the Slovak Chamber of Auditors.

Fees

Supplementary pension plans: Supplementary pension insurance companies may charge the following three types of fees:

- Administration fee;

- Transfer fee for switching between supplementary pension insurance companies;
- Cessation payment fee (see section Benefit provisions, Preservation, portability, transferability).

The transfer fee must not exceed 5% of the member's account balance in the first three years of membership. Thereafter, the fee must not exceed 1% of the member's account balance.

The cessation payment fee must not exceed 20% of the member's account balance.

The annual fee for administrative costs of the supplementary pension insurance company must not exceed 3% of the value of the plan's net annual average assets.

Winding up / Merger and acquisition

Supplementary pension plans: Winding up of a supplementary pension insurance company is only allowed for the purpose of merging with another supplementary pension insurance company or splitting into two companies.

A supplementary pension insurance company is wound up by a decision of the shareholders (i.e. at a general meeting) subject to the approval of the National Bank of Slovakia (NBS) or after a decision of the NBS to revoke the license of the company.

Before revoking the license of a supplementary pension insurance company, the NBS must transfer the plan assets to another supplementary pension insurance company.

Bankruptcy: Insolvency Insurance / Compensation Fund

Supplementary pension plans: There are no legal requirements for supplementary pension insurance companies to be insured against losses and no compensation fund exists.

Disclosure of information / Individual action

Supplementary pension plans: Plan members must be provided with information about their accumulated capital at least once a year.

Supplementary pension insurance companies must publish on their websites an evaluation report of the assets under management, provide information about mergers, transfer of the administration, the value of their own capital, the statutes of the company, the net asset value, annual financial statement including a balance sheet and other information concerning the financial and economic situation of the company.

Plan members must, upon request, be provided with the annual report on the financial and economic situation of the supplementary pension insurance company including the balance sheet.

The National Bank of Slovakia (NBS) receives complaints and makes efforts to resolve disputes.

Other measures

Supplementary pension plans: No legal rules.

Tax Treatment

Taxation of employee contributions

Supplementary pension plans: Contributions are tax-deductible up to SKK 12,000 a year.

Taxation of employer contributions

Supplementary pension plans: Contributions are tax-deductible up to 6% of the member's salary.

Taxation of investment income

Supplementary pension plans: Tax-exempt.

Taxation of benefits

Supplementary pension plans: Both pensions and lump-sum benefits are taxed at a rate of 19%.

Regulatory and Supervisory Authorities

National Bank of Slovakia: Supervises compliance of supplementary pension insurance companies

with plan rules and with financial plans and asset management regulations, the operations of custodians and ensures the protection of rights of plan members and beneficiaries.

Authorized employees of the National Bank of Slovakia (NBS) may with regard to supplementary pension insurance companies:

- Enter their offices;
- Attend the meetings of their internal bodies;
- Request any information necessary for assessing their activities.

The NBS may, after transferring the plan assets to another supplementary pension insurance company, revoke the license of a supplementary pension insurance company if it significantly violates legal requirements and does not comply with measures imposed by the supervisory authority.

The Financial Market Authority merged with the National Bank of Slovakia on 1 January 2006 to create an independent, fully-integrated financial market watchdog.

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Slovenia

Exchange rate: USD 1.00
equals 202.80 tolar (SIT)

Regulatory Framework

2005: Investment Funds and Management Companies Act; provides conditions under which investment funds and management companies are founded; regulates the way they are run and supervised and pension mutual funds management.

2004: Insurance Act; regulates the establishment, operation and supervision of insurance companies.

2004: Pension and Disability Insurance Act; regulates the establishment, operation and supervision of the supplementary insurance scheme, complementing the basic public social insurance scheme.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish on a voluntary basis a complementary occupational pension plan for their employees.

If a pension plan requires employees to contribute it must be established in accordance with a collective agreement between the sponsoring employer(s) and the trade union(s) representing the employees.

If there is no collective agreement, the plan must be established in accordance with the contract signed by the sponsoring employer(s) and its employees. In this case, the representative trade union may agree on behalf of the employees to the establishment of the pension plan. Where several unions are organized at the sponsoring employer(s), the unions must jointly agree. Where no representative union exists, a worker's council established under the Employee Management Participation Act can sign the contract to establish the plan. If there is neither a representative union nor a worker's council, the decision to enter into a contract to establish a plan must be made by the majority of the employees at a general assembly.

Membership in the pension plan is voluntary for employees and must not be made a condition of employment.

Banks, pension and insurance companies may establish and manage open pension funds to which employers and individual employees may adhere.

Types of plans

All plans: Complementary occupational pension plans must be defined contribution and provide old-age benefits. Early retirement, disability and survivor benefits may be provided in addition to old-age benefits.

Pension plans must specify the following issues:

- Membership conditions;
- Contribution rates, with the part of the contribution allocated to cover risk insurance;
- Investment policy;
- Information on guaranteed returns;
- Administrative costs;
- Benefit qualifying conditions;
- Benefit structure.

If a plan provides disability and survivor benefits it must also specify the benefit qualifying conditions for these benefits.

In order to receive favourable tax treatment, pension plans must cover at least 51% of all employees of the sponsoring employer(s) and must be approved by the Ministry of Labour, Family and Social Affairs (*Ministrstvo za delo, družino in socialne zadeve* - MLFSA). After obtaining approval, the pension plan must be entered into the court register and must also be registered with the competent tax authority.

Pension plans must be implemented through the establishment of a pension fund that can take the legal form of a mutual pension fund or a pension company; or pension plans may be implemented through a contract with an insurance company.

Mutual pension funds: Pension plans may be

implemented through the establishment of mutual pension funds that are owned by the members and which are not independent legal entities. Plans implemented through mutual pension funds must have at least 1,000 members and may be open or closed funds. While closed mutual pension funds are exclusively sponsored by employers, open mutual pension funds may be sponsored by banks and insurance companies.

Pension companies: Pension plans may be implemented through the establishment of pension funds managed by pension companies that are independent legal entities. Pension companies are joint-stock companies subject to most of the same laws governing joint-stock insurance companies. Plans implemented through pension companies must have at least 15,000 members after the pension company has been established for one year. Contributions are allocated to the individual's account with the pension insurance company.

Insured plans: Pension plans may be implemented through a contract with a life insurance company operating in compliance with the Insurance Act.

Institutional Framework

Mutual pension funds: Mutual pension funds are owned by the members and are not independent legal entities. The assets of a fund are divided in units and the units owned by a member are entered into the member's individual account.

Mutual pension funds may be either open or closed funds. Closed funds are established by employers and only their employees may belong to those funds. Open funds are not subject to employment with a certain employer, and may be established by banks or insurance companies which may offer membership to employers and employees.

An employer wishing to establish a closed mutual pension fund must be:

- A company with share capital and which is considered as a large company according to the Companies Act; or
- Several companies which jointly meet the conditions for ranking among large companies according to the Companies Act; or
- A cooperative which, according to the regulations on keeping ledgers and drawing up of annual reports, is considered as a large company (or several smaller cooperatives jointly fulfilling this condition); or
- Public institutions (separately or jointly) with over 1,000 employees; or
- The Republic of Slovenia.

In order to establish a mutual fund, the employer(s) must obtain the authorization of the Securities Market Agency (*Agencija za trg vrednostnih papirjev* - SMA). The application for authorization must include:

- The founding employer's name and registered office;
- The expected number of members of the pension plan for which the fund is established;
- The amount, method and schedule of contributions;
- Prove that the requirements concerning the founders outlined above are fulfilled;
- The rules of the mutual pension fund;
- The contract of management of the mutual pension fund (see below);
- The contract with the Central Securities Clearing Corporation;
- The contract with a bank;
- The pension plan as approved by the Ministry of Labour, Family and Social Affairs (MLFSA).

The pension plan forms an integral part of the rules of the mutual pension fund. The fund rules must regulate the following issues:

- The amount and the method of covering the management cost of the mutual pension fund;
- The investment policy of the fund;
- The method for disclosing information to the sponsoring employer(s), the members and the supervisory authority;
- The procedure for the liquidation of the fund;
- The procedure for revising the rules of the fund.

The sponsoring employer(s) must contract the management of the contribution and benefit administration, and the asset management to an institution known as an operator. The following

institutions may be operators of mutual pension funds:

- An insurance company holding a permit to manage pension funds according to the law governing insurance;
- A bank holding a permit to manage pension funds in accordance with the law governing banking.

The operator may contract the investment process out to a management company authorized by the SMA.

The same conditions outlined above apply to banks and insurance companies that establish open mutual pension funds.

Mutual pension funds do not have governing boards.

Pension companies: Pension companies are independent joint-stock companies with a registered office in the Republic of Slovenia.

Pension companies must only operate complementary pension plans and are subject to most provisions of the law governing insurance and joint-stock insurance companies.

Pension companies manage the contribution and benefit administration themselves but may contract the asset management and the payment of annuities to another legal entity.

Pension companies must obtain authorization to operate from the Insurance Supervisory Agency (*Agencija za zavarovalni nadzor* - ISA) which is only granted if there is a positive recommendation from the MLFSA.

The articles of association of a pension company must include:

- Basic principles and restrictions of investments;
- The amount and basis for the calculation of administration costs;
- Method of disclosure of information to members.

The share capital of a pension company must be maintained at one-third of the minimum capital stipulated in the Insurance Act for a life insurance company.

The acquisition of shares of a pension company, on the basis of which a person, directly or indirectly, becomes a holder of 10%, 20%, 33% or 50% of the shares of the pension company is subject to the authorization of the ISA.

Pension companies must have management and supervisory boards. Members of the management board must be authorized by the ISA to carry out their functions and must meet the requirements in the Insurance Act for board members of a joint-stock insurance company.

At least one-third of the members of the supervisory board must be appointed upon proposal of the plan members. Members of the supervisory board must not be associated with entities in which the pension company has an interest exceeding 5%.

Pension companies must employ an actuary and a number of employees with appropriate financial knowledge and experience. Pension companies may contract out the asset management and payment of annuities to another legal entity.

Insured plans: The pension plan is administered by a life insurance company operating in compliance with the Insurance Act.

Coverage

All plans: Plans cover private- and public-sector employees and self-employed persons who are insured on a mandatory basis under the publicly managed social security scheme.

Access to a pension plan must be granted to all employees of an employer under the same terms and no discrimination is allowed. The conditions for acquisition of rights under the pension plans must not be different for men and women.

Persons who are not covered by the publicly managed social security scheme may contract a personal pension plan with an open mutual pension fund established by a bank or insurance company, or with a pension company.

Financing / Investment

Sources of funds

Employee contributions

All plans: Employees are not required to contribute but the minimum total employer and employee contribution must be SIT 4,040 per month. Whether employees contribute depends on the contract between the employee and employer. Employee contributions are limited by tax rules (see section Tax treatment).

Minimum and maximum (for tax purposes) contributions limits are adjusted once a year.

Employer contributions

All plans: There is no legal minimum employer contribution but the minimum total employer and employee contribution must be SIT 4,040 per month.

There is no upper limit on contributions except for tax relief purposes.

Minimum and maximum (for tax purposes) contributions limits are adjusted once a year.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded in individual accounts.

Asset management

All plans: Pension plans must provide a minimum guaranteed return on paid in net contributions of 40% of the average annual interest on government securities with the maturity exceeding 1 year.

Pension plan assets may only be invested in:

- Securities issued by the Republic of Slovenia, the Bank of Slovenia, a signatory state of the European Economic Area Agreement, an OECD member state, an international financial organisation or an entity for which one of the former acts as guarantor;
- Bonds or other debt securities traded on an organized securities exchange in the Republic of Slovenia, a signatory state of the European Economic Area Agreement or an OECD member state;
- Bonds or other debt securities not traded on an organized securities exchange, if they are issued by a legal entity whose head office is in the Republic of Slovenia, a signatory state of the European Economic Area Agreement or an OECD member state;
- Shares traded on an organized securities exchange in the Republic of Slovenia, a signatory state of the European Economic Area Agreement or an OECD member state;
- Shares not traded on an organized securities exchange if they are issued by a legal entity whose head office is in the Republic of Slovenia, a signatory state of the European Economic Area Agreement or an OECD member state, and if they are issued as securities;
- Investment coupons of mutual funds or shares of investment companies which only place their assets in securities in order to spread and manage risks;
- Claims arising from loans according to the Insurance Act;
- Immovable property and other real rights to immovable property;
- Investments in deposits or certificates of deposits held in a bank whose registered office is in the Republic of Slovenia, a signatory state of the European Economic Area Agreement or an OECD Member State;
- Cash in hand or sight (short-term) deposits.

Quantitative limits on types of investment of pension plans also apply.

Plan assets must be kept by a custodian.

Mutual pension funds: Asset management must be contracted by the operator to an asset management company holding a permit to manage investment funds in accordance with the Investment Funds and Management Companies Act.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: The maximum waiting period is 1 year.

Vesting rules

All plans: Employer and employee contributions vest immediately.

Preservation, portability, transferability

All plans: Upon termination of employment before retirement, an employee ceases to be a member of the plan of the former employer and has the following options:

- Keep the accumulated capital in the mutual pension fund, pension company or insured plan;
- Transfer the accumulated capital to the plan of the new employer.
- Receive the accumulated capital as a taxable lump sum provided the member has contributed to the pension plan for at least 120 months. Otherwise, the accumulated capital is left with the mutual pension fund, pension company or insured plan until 120 months after the member's first contribution to the pension plan, at which time they may receive the lump-sum payment.

Retirement benefits

Benefit qualifying conditions

All plans: Benefits are payable if the following three conditions are met:

- Age 58;
- Eligible for a pension under the publicly managed social security scheme; and
- At least 120 months of membership in a complementary pension plan.

If a member is no longer covered by the publicly managed social security scheme, the qualifying conditions are:

- Age 53;
- At least 180 months of membership in a complementary pension plan; and
- Membership of a pension plan which provides the right to early supplementary old-age pension.

Benefit structure / formula

All plans: The benefit must be paid as a life annuity.

Mutual pension funds: Defined contribution.

On retirement, the operator must purchase a life-annuity pension from a life insurance company for the retiree. The operator selects the annuity provider unless the pension plan allows retiring members to choose the life insurance company from which their annuity is to be purchased.

Pension companies: Defined contribution.

The pension plan may provide for annuities to be paid by the pension company or may stipulate that annuities are to be purchased from a life insurance company. In the latter case, the pension company selects the annuity provider unless the pension plan allows retiring members to choose the life insurance company from which their annuity is to be purchased.

Insured plans: Defined contribution.

The life annuity is provided by the life insurance company administering the plan.

Benefit adjustment

All plans: No legal rules.

Survivors

All plans: Plans may provide for survivor pensions. If provided, benefits must only be payable to survivors that are eligible for survivor benefits under the publicly managed social security scheme.

There are no other legal rules concerning benefits under complementary survivor insurance.

If survivor insurance is not provided, on the death of a member, the accumulated capital is paid to the member's nominated beneficiaries. If a member had not nominated a beneficiary, the capital is paid to the heirs of the deceased member.

Disability

All plans: Plans may provide for disability benefits.

There are no legal rules concerning benefit qualifying conditions under complementary disability insurance.

Disability benefits are paid until the normal retirement age and are financed by the accumulated capital in the individual account of the disabled member.

Protection of Rights

Protection of Assets

All plans: The assets of the pension plans must be kept separately from the assets of sponsoring employers, operators, and pension or insurance companies administering plans.

The operator or the pension or insurance company must conclude a contract with the Central Securities Clearing Corporation which opens an account for the pension plan where intangible assets are registered.

Financial and Technical Requirements / Reporting

Mutual pension funds: At the end of each quarter a mutual pension fund operator must calculate the investment return for the past 12 months by calculating the percentage change in the unit value over the previous 12 months.

Pension companies and insured plans: Pension and insurance companies are required to submit to the Insurance Supervision Agency (ISA) nonaudited financial statements within 3 months of the end of the calendar year and audited statements within 6 months of the end of the calendar year.

Annual reports of pension and insurance companies must include a report by an actuary which includes the actuary's opinion whether contributions and technical provisions are in accordance with legal regulations.

Annual reports must be published with the audited financial statements. Reports must include a description of operations of the previous year, as well as of the different investment funds managed.

Each pension and insurance company must report the following information quarterly to the ISA:

- The amount of capital;
- Capital requirements;
- Capital adequacy;
- The amount of reserves;
- The value and types of investments not financed from reserves;
- The value of the assets covering reserves;
- The types, spread, adjustment and geographic distribution of invested assets covering reserves;
- Statistical insurance data;
- The balance sheet and the business result.

An actuary must submit the actuary's opinion on the annual report to the supervisory board and board of directors, together with a report on the findings of the actuary regarding the supervision carried out in the preceding year. The report must, in particular, include the actuary's reasons for issuing a favourable opinion, an opinion with a reservation or an unfavourable opinion on the annual statements.

The following information related to the operations of pension and insurance companies must be published:

- Prospectus for public sale of a share of an investment company;
- Annual and half-yearly report on the operation of the different investment funds managed;
- Report on the composition of investments in investment funds;
- Value of shares of an investment company.

Whistleblowing

Mutual pension funds: Custodians should promptly notify the operator (see section Institutional Framework) and the supervisory institutions if a pension fund has violated regulations or administrative provisions or committed irregularities in its operations.

Pension companies and insured plans: The actuary must report to the board of directors of the pension or insurance company if premiums have not been calculated or if technical reserves have not been set aside in accordance with the regulations, or if they have been calculated or set aside in such a way that

meeting the long-term obligations of the pension or insurance company is jeopardized.

The actuary must also inform the Insurance Supervision Agency (ISA) if the board of directors fails to take into consideration the actuary's report in an appropriate manner.

If the auditor finds that a pension or insurance company or a person related to the pension or insurance company has violated the risk management rules, and the pension or insurance company is thereby threatened with illiquidity or insolvency, or its operations or the interests of insured persons are endangered, the auditor must immediately inform the ISA.

Standards for service providers

Mutual pension funds: The asset manager contracted by the operator of a mutual pension fund must hold a permit to manage investment funds in accordance with the Investment Funds and Management Companies Act.

Pension companies and insured plans: Pension and insurance companies must have an actuary and an independent internal audit unit directly subordinate to the board of directors of the company. The internal audit unit must be functionally and organizationally separate from other organizational units.

Fees

All plans: The Minister of Finance determines the maximum administrative costs that an operator, pension or insurance company may charge for the management of a pension fund as well as the maximum enrolment and withdrawal fees.

Winding up / Merger and acquisition

Mutual pension funds: A mutual pension fund must be wound-up if:

- The authorization of the operator of the mutual pension fund has been revoked, or if bankruptcy or liquidation proceedings have been initiated in respect of the operator;
- The number of members of the mutual fund is less than 1,000 one year after it was established;
- The number of members of the mutual fund falls below 1,000 after the first year of its establishment and does not reach the required number within 3 months;
- The net value of the fund assets falls below SIT 50,000,000 and does not reach this sum within 3 months;
- In such other cases as provided for in the fund rules.

From the date of publication of an order winding-up a mutual pension fund, members of the fund cannot request the operator to disburse units in their personal accounts.

If the authorization of the operator of a mutual pension fund has been revoked, or if bankruptcy or liquidation proceedings have been initiated against the operator, the Insurance Supervision Agency (ISA) may issue an order that the mutual pension fund management is to be transferred to another operator provided the latter agrees to take over the management.

Pension companies and insured plans: The winding-up of pension and insurance companies is subject to the Insurance Act.

The ISA must withdraw an authorization granted to a pension or insurance company in the following cases:

- If the authorization was obtained by providing false data;
- If the supervisory board failed to dismiss a member (or members) of the board of directors in accordance with a decision of the ISA and appoint new members within the allotted time, or if the newly appointed board members do not ensure the elimination of violations or the execution of the additional measures within 2 months of their appointment;
- If grounds exist for the withdrawal of an authorization to acquire a controlling interest as defined in the Insurance Act (see section Institutional Framework) in an entity which is directly or indirectly controlled by the pension or insurance company.

Bankruptcy: Insolvency Insurance / Compensation Fund

All plans: There is no requirement for plans to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

All plans: Members of a pension plan must be provided annually with a certificate of information about their individual accounts.

Pension companies and insured plans: Pension and insurance companies must inform members about changes to the company name, the legal form of organization, the head office and the branch through which their insurance contracts were concluded.

Insurance companies must notify policy holders of their participation in profits once a year.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: Tax relief is granted on contributions between SIT 4,040 per month (minimum total employee and employer contribution) up to the lesser of 24% of average annual compulsory contributions for old-age and disability insurance or SIT 549,400 per year; or if retired, up to 5.84% of the member's pension.

The contribution limits must be adjusted annually according to changes in the consumer price index in the Republic of Slovenia.

Taxation of employer contributions

All plans: Tax relief is granted on contributions between SIT 4,040 per month (minimum total employee and employer contribution) up to a maximum of 24% of average annual compulsory contributions for old-age and disability insurance, 5.84% of the member's pension or SIT 549,400 per year.

If contributions are paid by both the employer and the employee, and the total amount of contributions exceeds the maximum contribution entitled to tax relief, the employee may only receive tax relief on the difference between the contribution paid by the employer and the maximum contribution.

Employer contributions are not considered as taxable fringe benefits for employees or as a salary payment.

Taxation of investment income

All plans: Tax-exempt.

Taxation of benefits

All plans: Taxed at the same rate as gross earnings.

Regulatory and Supervisory Authorities

Securities Market Agency: Supervises mutual pension funds and pension companies in cooperation with the Insurance Supervision Agency.

The Securities Market Agency is responsible for:

- Monitoring, collecting and verifying reports and notifications of pension funds and operators of mutual pension funds;
- Conducting inspections of the operations of the organizations under supervision.

Agencija za trg vrednostnih papirjev
Poljanski nasip 6
SI-1000 Ljubljana
Slovenia
Tel.: (+ 386) 1 2800 400
Fax: (+386) 1 2800 430
Internet: www.a-tvp.si

Insurance Supervision Agency: Supervises pensions and insurance companies in the Republic of Slovenia.

The Insurance Supervision Agency is responsible for:

- Granting authorizations, approvals, opinions,

decisions, and orders to pension and insurance companies;
- Monitoring, collecting and verifying reports and notifications of pension and insurance companies;
- Conducting examinations of operations of pension and insurance companies.

Agencija za zavarovalni nadzor
Trg republike 3
SI-1000 Ljubljana
Slovenia
Tel.: (+386) 1 2528 600
Fax: (+386) 1 2528 630
Internet: www.a-zn.si

Ministry of Labour, Family and Social Affairs:
Supervises the implementation of the Pension and Disability Insurance Act, and the rights of persons who are members of voluntary complementary pension plans.

Ministrstvo za delo, družino in socialne zadeve
Kotnikova 5
SI-1000 Ljubljana
Slovenia
Tel.: (+386) 1 3697 700
Fax: (+386) 1 3697 832
Internet: www.mddsz.gov.si

Tax Administration of the Republic of Slovenia:
Supervises the application of the law regulating tax with regard to complementary pension plans. The Tax Administration is part of the Ministry of Finance.

Davcna uprava Republike Slovenije
Šmartinska cesta 55
SI-1001 Ljubljana
Slovenia
Tel.: (+ 386) 1 4782 700
Fax: (+386) 1 4782 743
Internet: www.durs.gov.si

Spain

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

2006: Act 11; regulates cross border activity of pension plans and funds.

2004: Royal Decree 304: approves the Pension Plans and Funds Regulation incorporating all aspects of the European Union Regulation, especially Directive 2003/41/CE, except cross border activity.

2002: Act 1; consolidates the Pension Plan and Pension Funds Law of 1987 and all its modifications and regulates the establishment of pension plans, pension funds and pension fund management entities; defines maximum contribution limits, regulates tax treatment and includes measures concerning protection of rights.

1999: Royal Decree on the implementation of employers' pension agreements with employees and beneficiaries; requires, based on the Insurance Law of 2004, employers to implement occupational pension agreements through group insurance contracts and/or the creation of a pension plan; restricts the establishment of book reserves to certain occupational pension agreements in the financial sector and provides for transitional arrangements for pre-existing plans.

Plan Profile

Plan sponsors

Employers may, on a voluntary basis, conclude pension agreements with their employees. Obligations arising from these agreements may be implemented through a pension plan or group insurance contracts. Pension agreements can exceptionally and in a transitory way be implemented through the establishment of book reserves (see section Types of plans). Arrangements implemented through group insurance contracts and book reserves are not referred to as pension plans and are not subject to pension plan legislation.

Associations, syndicates and trade unions may, on a voluntary basis, establish association pension plans for their associates or members.

Financial institutions may establish individual pension plans and offer them to all individuals.

Types of plans

Pension plans: Pension plan legislation permits three types of pension plans: occupational, association and individual pension plans.

Pension plan legislation distinguishes between Employment Pension Plans, which only comprise occupational pension plans, and Personal Pension Plans, which comprise association and individual pension plans.

Employment pension plans: Single employers may implement the pension agreement with their employees through the creation of an occupational pension plan. The employer can only sponsor one pension plan.

A group of companies, a sectoral collective agreement and public administrative bodies may also sponsor employment pension plans.

Plans may be defined benefit, defined contribution or hybrid plans. Contributions may be made by employers and employees.

Association pension plans: Associations, syndicates and trade unions may establish a pension plan for their members.

Plans may be defined benefit, defined contribution or hybrid plans. Contributions are only made by plan members.

Individual pension plans: Financial institutions may establish individual pension plans and offer them to all individuals.

Plans must be defined contribution plans.

Contributions are only made by the plan members.

Association and individual pension plans are not covered further in the following sections.

Group insurance contracts: Single employers may implement the pension agreement with their employees through group insurance contracts with an authorized life insurance company.

The administration of insurance contracts is not subject to pension plan legislation but to insurance legislation and is not covered further in the following sections.

Book reserve: The book reserve method of implementing pension agreements was allowed before 1995. Banks, insurance companies and other financial intermediaries may continue, during a transitional period only, to use the book reserve method to implement pension plans that were in existence at the effective date of the Insurance Act of 1995 for members who joined the plan before December 1999.

Information on pension agreements implemented through the establishment of book reserves is not provided further in the following sections.

All plans: Membership is voluntary for covered employees.

Institutional Framework

Employment Pension plans: A Plan Control Commission must be established for each occupational pension plan with members representing the sponsoring employer, employees and beneficiaries. Fifty per cent of the members of the commission must be employer representatives.

The Plan Control Commission:

- Supervises the operation of the plan;
- Appoints an actuary to review the plan;
- Proposes changes to contribution rates on the basis of the actuarial review;
- Decides through which pension fund the plan is to be implemented;
- Nominates representatives to the pension Fund Control Commission;
- Represents the plan's interests with the fund administrator appointed by the pension Fund Control Commission.

Pension plans must be implemented through pension funds that are autonomous patrimonies without independent legal status established for the sole purpose of implementing pension plans. Pension funds may be established as either closed or open funds.

The establishment of a pension fund is subject to the approval of the Ministry of Economy and pension funds must be registered with the Ministry. The constituting statutes of the fund must be attached to the application for its approval and regulate the:

- Procedures for the election of members of the Fund Control Commission and the renewal of their mandates;
- Investment policy;
- Actuarial basis;
- Rules for liquidation of the fund.

A Fund Control Commission must be established for each pension fund. If a pension fund implements several occupational pension plans, its Control Commission consists of employer, employee and beneficiaries representatives stemming proportionately from the Plan Control Commissions. Where a pension fund implements only one occupational pension plan, the Plan Control Commission also carries out the functions of the Fund Control Commission.

The Fund Control Commission:

- Supervises the operation of the fund;
- Appoints the fund administrator;
- Appoints the custodian (see section Asset Management);
- Decides on the admission of pension plans to the pension fund;
- Defines the investment policy and supervises its implementation (this responsibility may be delegated to the fund administrator).

Pension funds must be managed by fund administrators which must be pension fund management entities (EGFPs) or authorized life

insurance companies and both are subject to pension legislation with regard to employment pension plans. EGFPs must be established as limited companies with the single aim of managing pension funds. EGFPs must comply with a minimum capital requirement, which depend on the pension fund assets managed.

The fund administrator is responsible for overall management of the pension fund including the benefit and contribution administration. Fund administrators must be authorized by the Directorate General for Insurance and Pension Funds and registered in the special register of pension fund management entities. In order to obtain a license, fund administrators must fulfil specified requirements with regard to fitness and propriety, internal organization, minimum capital, etc.

Coverage

Employment pension plans: All public- and private-sector employees.

Discrimination in coverage is prohibited but differences in the contribution and benefit structure for different categories of employees are allowed provided that they are based on objective criteria. Plans may be divided into sub-plans to provide for different categories of employees.

Financing / Investment

Sources of funds

Employee contributions

Employment pension plans: Contributions by employees aged 52 or younger must not exceed EUR 8,000 a year, gradually increasing by EUR 1,250 per year of age up to a maximum of EUR 24,250 at age 65. This limit includes any contributions made to individual pension plans (see section Types of plans).

Employer contributions

Employment pension plans: Contributions by employers with respect to employees aged 52 or younger must not exceed EUR 8,000 a year, gradually increasing by EUR 1,250 per year of age up to a maximum of EUR 24,250 at age 65.

Employers may exceptionally make additional contributions to the occupational pension plan to guarantee benefits in payment or members' vested rights in defined benefit pension plans if there is a deficit.

Other sources of funds

Employment pension plans: None.

Methods of financing

Employment pension plans: Funded.

Defined benefit plans use the Projected Unit Credit Method and the Entry Age Method to establish the contribution rate payable over the active lifetime of employees sufficient to finance benefits promised. The calculation of accrued liabilities includes an allowance for the effects of future salary increases on accrued pensionable service and accrued benefits.

Asset management

Employment pension plans: The Plan Control Commission (see section Institutional framework) approves investment guidelines and policies and determines the portfolio composition. Fund administrators must manage the fund assets directly or contract out the asset management through an outsourcing agreement.

Fund assets must be invested in accordance with criteria of security, profitability, diversification and adequate liquidity.

At least 70% of pension fund assets must be invested in financial assets negotiable on organized markets, bank deposits, mortgages and property.

Of total assets invested:

- A maximum of 20% may be in the same Undertakings for the Collective Investment of Transferable Securities (UCIT);
- A maximum of 10% may be in securities issued or guaranteed by the same group of companies;
- A maximum of 5% may be in a single property;
- A maximum of 5% may be in securities issued or guaranteed by the same entity;
- A maximum of 4% may be in securities not traded

on a regulated market issued by entities belonging to a single group;
- A maximum of 2% may be in securities not traded on a regulated market issued by the same entity.

The limits above do not apply to securities issued or guaranteed by the state or its organizations, by regional or local authorities, by equivalent public administrations of OECD countries and by international institutions and organizations of which Spain is member.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Employment pension plans: No legal rules.

Waiting periods depend on plan rules but cannot be more than 2 years.

There is no legal minimum/maximum age for joining a plan.

Vesting rules

Employment pension plans: Employee and employer contributions vest immediately.

Preservation, portability, transferability

Employment pension plans: Upon termination of employment before retirement, a member's accrued benefits or accumulated capital may be preserved in the plan if it provides for this option, or transferred to the pension plan of the new employer or to another pension plan that the member designates.

Preservation rights must be adjusted according to the investment returns of the pension fund management entities in which the rights are preserved.

Retirement benefits

Benefit qualifying conditions

Employment pension plans: Retirement age is the same as under the social security scheme (i.e. age 65 for men and women). Early retirement is possible if a member is eligible for early retirement benefit under the social security scheme.

Plan rules may permit an advance payment in case of unemployment at any age due to a retrenchment approved by the labour authority.

If provided for in the plan rules, vested rights may be refunded if none of the qualifying conditions established in the plan rules are met and the member has a long period of unemployment or is seriously ill.

Benefit structure / formula

Employment pension plans: Defined benefit, defined contribution or hybrid.

Benefits may be paid as pensions, lump sums or a combination of both. There are no limits with regard to lump-sum benefits. A pension fund management entity (EGFP) may cover pensions through a policy with an insurance company.

Defined benefit plans use the Projected Unit Credit Method and the Entry Age Method to establish the contribution rate payable over the active lifetime of the employees that is sufficient to finance the benefits promised. The calculation of accrued liabilities includes an allowance for the effects of future salary increases on accrued pensionable service and accrued benefits.

The discount rate used in defined benefit plans has been 4% in the last years.

There are no further legal requirements concerning the benefit structure/formula.

Benefit adjustment

Employment pension plans: The Plan Control Commission decides on benefit adjustments on a discretionary basis.

Survivors

Employment pension plans: Survivor benefits may be provided.

The benefit qualifying conditions and benefit structure depend on plan rules.

Disability

Employment pension plans: Disability benefits may be provided.

Eligibility conditions for disability benefits must be the same as under the social security scheme.

The benefit structure depends on plan rules.

Disability benefits are often provided through separate insurance contracts.

Protection of Rights

Protection of Assets

Employment pension plans: Assets must be held in a pension fund separately from the assets of the sponsoring employer and the fund administrator.

Pension fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

Employment pension plans: Assets must be sufficient to cover the accumulated benefit obligations.

Defined benefit plans must maintain technical provisions and meet a minimum solvency margin requirement of 4% of actuarial liabilities.

The maximum interest rate used by occupational pension plans is 4%.

Defined benefit plans and some hybrid plans must undertake an actuarial review of assets and liabilities every year.

Defined contribution plans that do not provide guarantees must, instead of the actuarial review, have a financial and economic information report prepared by the fund administrator.

Fund administrators must submit to the Directorate General for Insurance and Pension Funds at the beginning of each year the fund's annual accounts and an auditor's report on the accounts confirming their compliance with legal requirements.

Fund administrators must also submit annually certain financial information separately for each pension fund managed.

Whistleblowing

Employment pension plans: Auditors and actuaries must inform the Directorate General for Insurance and Pension Funds about any act or negligence by the fund which in their opinion contravenes the law or the fund rules. The Directorate General for Insurance and Pension Funds communicates frequently with other supervisory bodies.

Standards for service providers

Employment pension plans: Custodians must be credit institutions established in the European Union authorized to receive funds from the public in the form of deposits or a similar form. Custodians must be registered in the register of pension fund custodians established by the Directorate General for Insurance and Pension Funds.

Auditors and actuaries must be independent and comply with legally established professional requirements. In addition, the appointment of an actuary or auditor must be notified to, and registered with, the Directorate General for Insurance and Pension Funds.

Fees

Employment pension plans: The maximum annual asset management fee charged by fund administrators is 2% of pension fund assets.

The maximum annual fee charged by custodians is 0.5% of pension fund assets.

Fees charged by pension funds and custodians must be communicated to the Directorate General for Insurance and Pension Funds.

Winding up / Merger and acquisition

Employment pension plans: The circumstances under which pension plans are wound up are legally specified (e.g. if the sponsoring employer ceases its activities). The same applies to the winding up of

pension funds (e.g. where the approval to establish a pension fund is revoked).

Legal rules provide for measures to be taken in order to protect members and beneficiaries in the case of wind up. The Directorate General for Insurance and Pension Funds may, under certain circumstances, take part in the wind-up process of a pension plan and/or a pension fund in order to ensure the protection of rights.

Bankruptcy: Insolvency Insurance / Compensation Fund

Employment pension plans: There is no requirement for plans to be insured against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

Employment pension plans: There are many obligations regarding the information that fund administrators must provide to plan members.

When joining the plan, members must receive the affiliation notice, information about the pension plan financial system, limit of contributions, sanctions, terms to notify contingencies, transferability of vested rights, investment policy and fund rules.

Upon request, fund administrators must provide fund members with a certificate of membership, plan rules and the investment policy.

On an annual basis, fund administrators must send a report to members on the contributions made and the final value of their vested rights.

On a quarterly basis, fund administrators must send a report to members containing information about the evolution of the vested rights, rule amendments, fund rules, investment policy and management and depositary fees.

Members may complain to the fund administrator. If members are unsatisfied with the reply, they may submit their complaint to the Directorate General for Insurance and Pension Funds.

Other measures

Employment pension plans: None.

Tax Treatment

Taxation of employee contributions

Employment pension plans: Employee contributions are tax-deductible up to the applicable contribution ceiling (see section Financing/ Investment, Employee contributions).

Taxation of employer contributions

Employment pension plans: Employer contributions are tax-deductible up to the applicable contribution ceiling (see section Financing/ Investment, Employer contributions). Employers may under certain circumstances benefit from an additional tax reduction of 10% of their contributions.

Employer contributions up to the applicable contribution ceiling are not considered as taxable fringe benefits for employees.

Taxation of investment income

Employment pension plans: Tax-exempt.

Taxation of benefits

Employment pension plans: Taxed.

Lump-sum benefits are tax-exempt up to 40% of the cash value of accrued benefits or accumulated capital.

Regulatory and Supervisory Authorities

Directorate General for Insurance and Pension Funds: Supervises pension plans, pension funds, insurance companies and pension fund management entities (EGFPs).

The pension legislation defines a set of violations of legal requirements ranging from minor to major violations and specifies actions that may be taken by the Directorate General for Insurance and Pension

Funds (DGIPF) to correct these violations.

The DGIPF is part of the Ministry of Economy.

Directorate General for Insurance and Pension Funds
Paseo de la Castellana, 44
28046 Madrid
Spain
Tel.: (+34) 91 339 70 85
Fax: (+34) 91 339 70 87
Internet: www.dgsfp.mineco.es

Sweden

Exchange rate: USD 1.00
equals 7.94 kronor (SEK)

Regulatory Framework

1999: Income Tax Act; Ch. 28 on employers' pension costs and Ch. 58 on pension insurance.

1998: Act on Foreign Insurance Business in Sweden; regulates the establishment, licensing and operation of insurers established outside the European Economic Area.

1990: Act on Yield Tax on Pension Assets.

1982: Insurance Business Act; regulates the establishment, licensing and operation of insurance companies, including insurers established within the European Economic Area.

1972: Mutual Benefit Societies Act; regulates the establishment, licensing and operation of mutual benefit societies, in particular those providing pension plans.

1967: Pension Safeguarding Act; outlines the methods for implementing complementary occupational pension plans and contains regulations to protect the rights of plan members.

Plan Profile

Plan sponsors

Employers, singly or as a group, may establish complementary occupational pension plans for their employees.

Almost all plans result from nationwide collective bargaining between employee and employer representatives.

Types of plans

Complementary occupational pension plans have generally been established by nationwide collective agreements and must be implemented by all employers covered by the agreement.

Membership is compulsory for all eligible employees of an employer covered by the collective agreement irrespective of whether they are trade union members or not.

ITP: A collective agreement between the Confederation of Swedish Enterprise (*Svenskt Näringsliv* - SN) and the Council for Negotiation and Co-operation (*Förhandlings- och samverkansrådet* - PTK) established the ITP plan for salaried employees in 1960. ITP is a defined benefit plan providing old-age, disability and survivor benefits.

The implementation of ITP is the responsibility of each single employer and may be done through:

- Insurance contracts with an insurance company;
- Establishment of book reserves (internal accounting for old-age pension promises);
- Establishment of a pension foundation.

Disability and survivor benefits must be insured with Alecta, which is a mutual insurance company.

ITPK: A collective agreement between SN and PTK established the ITPK plan in 1991 to complement ITP. ITPK is a defined contribution plan for salaried employees. The original aim was to finance early retirement.

Members of ITP also participate in ITPK. ITPK is implemented through an insurance contract with an insurance company of the member's choice. Members who do not exercise their choice are insured with Alecta.

SAF-LO: A collective agreement between SN and the Swedish Trade Union Confederation (*Landsorganisationen i Sverige* - LO) established a defined contribution plan known as the SAF-LO plan in 1999, replacing the older STP plan. SAF-LO is implemented through an insurance contract with the insurance company of the member's choice.

KAP-KL: A plan for local government, including municipalities, county councils, regional and

municipal companies. It replaced older plans on 1 January 2006 and combines features of a defined contribution plan and a defined benefit plan.

PA 03: A plan for government employees and some other categories of employees. It is a combined defined benefit and defined contribution plan.

Other plans: Most other plans established by employers not covered by the collective agreements outlined above are aligned to ITP, ITPK or SAF-LO and provide similar benefits.

No authorization is required for establishing a plan.

Institutional Framework

All plans: Pension plans are not subject to authorization. The establishment and operation of insurance companies and special occupational pension institutions are subject to a license by the Financial Supervisory Authority (*Finansinspektionen* - FSA).

To obtain this license, specific requirements concerning the form and content of the articles of association and the financial status must be fulfilled, and the intended business must comply with legal requirements.

ITP: In the case of insured plans, the insurance policy must be contracted with a mutual insurance company, Alecta. The board of directors consists of representatives of policyholders (i.e. sponsoring employers) and beneficiaries (i.e. plan members). Alecta manages the contribution and benefit administration. Many employers outside the Confederation of Swedish Enterprise (SN) mimic the ITP plan, but contract with other insurers.

If liabilities are accounted for internally through the establishment of book reserves, the employer must register with the Pension Registration Institute (PRI), an organization administered by the SN and the Council for Negotiation and Co-operation (PTK). The PRI calculates the pension liability and the corresponding provisions, and manages the benefit administration. It pays pensions to retirees and is reimbursed by employers.

Plans may also be implemented through a pension foundation that is an independent legal entity separate from the sponsoring employer. The governing board of a pension foundation must have equal employer and employee representation. The employer pays the benefits and is reimbursed by the foundation.

ITPK: Implemented through a contract with Alecta (default choice) or another insurance company as chosen by the member. The insurance company manages the contribution and benefit administration. Plan members must inform Collectum, a separate company founded and administered by the SN and the PTK, about the insurance company they have chosen.

SAF-LO: Implemented through an insurance contract with the insurance company of the member's choice. Plan members must inform Fora, a separate company administered by the SN and the Swedish Trade Union Confederation (LO), about the insurance company they have chosen. Fora then underwrites insurance agreements with employers, collects and distributes contributions and pays benefits to retirees on behalf of insurance companies.

Coverage

ITP and ITPK: Private-sector salaried employees from age 18. Disability insurance commences at age 18 and coverage for old-age and survivor benefits at age 28.

SAF-LO: Private-sector wage earners born on or after 1 January 1932 from age 21.

KAP-KL: Local government and county council employees from age 21.

PA 03: Central government employees from age 18.

Other: The self-employed may buy individual pension savings products offered by insurers, banks or security companies. Information on these is not covered in the following sections.

Financing / Investment

Sources of funds

Employee contributions

All plans: None.

Employer contributions

ITP: Differs significantly between individual employees depending on factors such as age, salary level and amount of accrued rights. Pension rights are earned from age 28.

ITPK: 2% of salary from age 28.

SAF-LO: 3.5% of wage from the month on reaching age 21.

KAP-KL: From 2007, 4.0 - 4.5% of salary from the month on reaching age 21, up to 30 income base amounts. Older rules apply with some modification during 2006. One income base amount equals SEK 44,500 as of 1 January 2006.

PA 03: Differs significantly between individual employees depending on factors such as age, salary level and amount of accrued rights, but 2.3% of the salary is the contribution towards an old-age pension, from age 23.

Other sources of funds

All plans: None.

Methods of financing

ITP: Funded or accounted for internally through the establishment of book reserves.

Disability and survivor benefits must be insured with Alecta, a mutual insurance company.

ITPK: Funded.

SAF-LO: Funded.

KAP-KL: Local government authorities with the right to levy taxes may choose not to fund defined benefit pensions.

PA 03: Defined benefit pensions not funded for most state authorities, but funded in some other cases.

Asset management

All plans: Asset management restrictions for insurance companies and occupational pension institutions are governed by EU rules about prudent investment principles.

ITP: Plan assets are managed by Alecta, a mutual insurance company, in the case of implementation through an insurance contract or by the pension foundation in the case of implementation through the establishment of a pension foundation.

ITPK: If members have chosen an insurance company other than Alecta, they may either decide to leave the asset management to the insurance company and earn a share of the insurance company's return or they may invest their assets in a unit-linked insurance fund of their choice. If the members opt for Alecta, assets are managed by Alecta and a guaranteed interest rate is paid.

The member's selection is always made for future contributions and the assets already accumulated remain in the option chosen in the past.

SAF-LO: Plan assets are managed by the insurance company chosen by the member. The choice is organized by Fora, a separate company administered by the Confederation of Swedish Enterprises (SN) and the Swedish Trade Union Confederation (LO). Individuals who do not choose are placed with AMF Pension, an occupational pensions institution. Plan assets that were invested on 1 January 2004 or later can be transferred to a number of other insurers.

KAP-KL: Plan assets are managed by the insurance company chosen by the member. The choice is organized by Pensionsvalet, an occupational pensions institution, and individuals who do not choose are placed with KPA, an occupational pensions institution within the local government sector.

PA 03: Individual plan assets are managed by the insurance company chosen by the member. The choice is organized by SPV, an occupational pensions institution, and individuals who do not choose are placed with FSO, an occupational pensions institution

for state employees.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No waiting period.

Vesting rules

All plans except KAP-KL: Full and immediate vesting.

KAP-KL: Acquisition of rights after 3 months of employment.

Preservation, portability, transferability

All plans: Full portability of rights when a member changes the employer but stays in the same category of employment. No portability, however, if employees are no longer covered by the same plan. In this case, rights are preserved and indexed until retirement age.

ITP: Assets are not transferred when changing employer while staying a member of the same plan. Pensions may therefore be paid during retirement from different sources.

ITPK: Members may change the insurance company even if not changing employer. Assets are not transferred when changing the insurance company and members can therefore have assets with several companies. Pensions may therefore be paid during retirement from different sources.

SAF-LO: Members may change the insurance company once a year even if not changing employer. Assets invested before 1 January 2004 are not transferred when changing the insurance company and members can therefore have assets with several companies. Pensions may therefore be paid during retirement from different sources.

Retirement benefits

Benefit qualifying conditions

All plans: Pensionable age is 65 for both men and women. There are usually upper age limits for retirement and the accumulation of benefits. The ITP plans have upper age limits of 70 and 65 respectively, whereas SAF-LO plans for both cases have the upper age limit of 65. KAP-KL plans have an upper age limit of 67 for retirement and 65 for accumulation of benefits. PA 03 plans have an upper age limit of 65 for accumulation of benefits, but no limit for retirement.

Early retirement is usually allowed in which case benefits are reduced.

Benefit structure / formula

ITP: Defined benefit.

Benefits are integrated with social security benefits by applying different replacement rates for different salary levels (step-rate integration). A full pension after 30 years of service equals:

- 10% of final salary up to 7.5 times the income base amount;
- 65% of final salary between 7.5 and 20 times the income base amount;
- 32.5% of final salary between 20 and 30 times the income base amount.

The income base amount equals SEK 44,500 as of 1 January 2006.

Benefits are reduced proportionally in the case of shorter contribution periods.

ITPK: Defined contribution.

The accumulated capital is paid over a fixed period. Pensions are usually paid for 5 years between ages 65 and 70 but the payment can start earlier or later (at the latest at age 70) and can be extended for a longer period.

SAF-LO: Defined contribution.

The accumulated capital is transformed into a pension payable for life. It can also be paid as a pension payable over a shorter time, but not less than 5 years.

KAP-KL: Defined benefit and defined contribution.

For defined benefit plans, a full pension after 30 years of service equals:

- 55% of the pension base between 7.5 and 20 times

the income base amount, plus
- 37.5% of the pension base between 20 and 30 times the income base amount.

The pension base corresponds to a salary average over a period close to the time of calculation.

For defined contribution plans, the accumulated capital is transformed into a pension payable for life. It can also be paid out as a pension over a shorter time, 5 or 10 years.

PA 03: Combined defined benefit and defined contribution.

A full defined benefit pension after 30 years of service depends on the year of birth, being lower for younger persons, which will earn more defined contribution pension, and equals:

- From 0 to 9.5% of the pension base up to 7.5 times the income base amount;
- From 32.40% to 64.85% of the pension base between 7.5 and 20 times the income base amount;
- From 30% to 60% of the pension base between 20 and 30 times the income base amount.

The pension base amount is linked to the salary during the last 5 years of service.

There are limited possibilities to transform the defined contribution pension from an annuity for life to a temporary pension.

Benefit adjustment

ITP: In the case of plans implemented through an insurance contract, the board of directors of Alecta, a mutual insurance company, decides annually on a pension supplement in order to compensate for inflation. The supplement may at a maximum correspond to the change in the Consumer Price Index.

In the case of implementation through book reserves or pension foundations, the employer or the board of the pension foundation respectively decide on pension increases.

ITPK: If assets are left with Alecta, the annual pension supplement (see above) provides compensation for inflation.

In the case of other insurance companies, pension adjustments depend on investment returns.

SAF-LO: Pension adjustments depend on investment returns achieved by the insurance company.

KAP-KL: Pension adjustments are mainly linked to the price base amount used as the income ceiling for sickness benefits and pensions (i.e. SEK 39,700 as of 1 January 2006) for defined benefit pension and depend on investment returns achieved by the insurance company chosen for defined contribution pension.

PA 03: Pension adjustments are made according to the change in the price base amount used as the income ceiling for sickness benefits and pensions (i.e. SEK 39,700 as of 1 January 2006) for defined benefit pension plans and depend on investment returns achieved by the insurance company chosen for defined contribution pension plans.

Survivors

ITP: Spouse pensions are payable provided that the marriage took place prior to the deceased reaching age 60, or if after age 60 the marriage has lasted for at least 5 years or a child resulted from the marriage. The full spouse pension equals:

- 0% of the deceased member's salary between 0 and 7.5 times the income base amount;
- 32.5% of the deceased member's salary between 7.5 and 20 times the income base amount;
- 16.25% of the deceased member's salary between 20 and 30 times the income base amount.

The income base amount equals SEK 44,500 as of 1 January 2006.

Benefits are payable to orphans under age 20 and vary according to the number of eligible orphans and depending on whether a parent is alive. The total benefit shared in equal parts by the orphans is a percentage of the full spouse pension:

Number of children	One parent	Full orphan
1	55%	75%
2	75%	110%
3	85%	135%
4	95%	150%
Each additional child	+10%	+10%

If orphans' pensions are payable, the spouse pension is reduced to 75% of the full spouse pension.

ITPK: No survivor benefits.

SAF-LO: Survivor benefits are optional.

If provided, the pension consists either of a five-year annuity purchased by means of the deceased member's accumulated capital or a five-year annuity of one or two annually raised price base amounts (i.e. SEK 40,500 as of 1 January 2006). The raised price base amount is used in the calculation of pension points and is more than the price base amount which is the income ceiling for sickness benefits and pensions.

KAP-KL: Survivor benefits are optional: a survivor's benefit paid to an adult, an orphan's pension and a supplementary widow's pension.

Spouse pensions are payable provided that the spouses lived together at time of death and either the marriage has lasted for at least 5 years, or the survivor at the time of death lived together with children under age 12. The children must be under the guardianship of both or one of the spouses.

PA 03: No survivor benefits, except for older plans.

Disability

ITP: Members must be at least age 18 and have been 25% disabled for 90 consecutive days or 105 days in the previous year.

The disability pension equals:

- 15% of previous salary up to 7.5 times the price base amount;
- 65% of previous salary between 7.5 and 20 times the price base amount;
- 32.5% of previous salary between 20 and 30 times the price base amount.

The price base amount relevant to disability benefits is SEK 39,700 as of 1 January 2006.

ITPK, SAF-LO and KAP-KL: No disability benefits.

PA 03: If entitled to sickness benefit from the Social Insurance Office, will also receive disability pension.

The disability pension equals:

- 21% of previous salary up to 7.5 times the price base amount;
- 81% of previous salary between 7.5 and 20 times the price base amount;
- 40.5% of previous salary between 20 and 30 times the price base amount.

The price base amount relevant to disability benefits is SEK 39,700 as of 1 January 2006.

Protection of Rights

Protection of Assets

All plans except ITP: Plan assets corresponding to defined contribution pensions must be kept by the insurance company completely separate from the assets of the sponsoring employer.

ITP: If implemented through insurance contracts or the establishment of pension foundations, plan assets must be kept by Alecta, a mutual insurance company, or the pension foundation completely separate from the assets of the sponsoring employer.

No asset separation if implemented through the establishment of book reserves.

Financial and Technical Requirements / Reporting

All plans: Insurance companies must submit annual reports to the Financial Supervisory Authority (FSA) before 1 April each year.

This annual report must cover:

- Financial statements, e.g. the balance sheet and profit and loss account;

- Solvency statements;
- Technical aspects, e.g. an actuarial analysis of the annual result.

Audited annual accounts (i.e. balance sheet and profit and loss account) must be prepared and submitted to the Swedish Companies Registration Office together with the auditor's report. In all nationwide insurance companies and major local insurance companies at least one of the appointed auditors must be a qualified accountant. The FSA may for these companies appoint an additional auditor to work with the auditors appointed by the company.

Domestic insurance companies are required to submit quarterly solvency statements.

ITP: No reporting requirements in the case of book reserve plans.

Pension foundations must submit their annual accounts to the local supervisor (county administrative board).

Whistleblowing

All plans: No legal rules.

Standards for service providers

All plans: Auditors of the accounts of nationwide and major local insurance companies must be qualified accountants and independent from the companies being audited.

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

All plans: The winding up, as well as mergers and acquisitions of insurance companies, is governed by the Insurance Business Act.

Bankruptcy: Insolvency Insurance / Compensation Fund

ITP: Employers that implement ITP through the establishment of a pension foundation or book reserves must insure the risk of insufficient assets in the case of insolvency with a guarantee fund managed by the Pension Guarantee Mutual Insurance Company (FPG).

FPG is a mutual nonlife insurance company only transacting insurance for safeguarding pension rights. Its board of directors consists of representatives of policyholders (i.e. sponsoring employers).

The guarantee fund takes over pension liabilities in the case of insufficient assets upon insolvency. FPG is entitled to recover from policyholders or the bankruptcy estate the amount paid.

In the case of employers using the book reserve method, the yearly contribution as of 1 January 2006 is 0.3% of accrued benefits and in the case of employers establishing pension foundations, 0.1% of accrued benefits.

FPG undertakes a credit assessment of companies using the book reserve method. If the credit worthiness is found to be unsatisfactory, FPG may demand collateral for the insolvency guarantee.

FPG reinsures its liabilities to protect itself against extraordinarily high claims in any single year.

ITPK, KAP-KL and PA 03: No legal rules. There is no policyholder guarantee fund in force.

SAF-LO: Upon insolvency of a sponsoring employer, a guarantee fund administered by Fora (see section institutional framework) pays outstanding contributions.

Disclosure of information / Individual action

All plans: An insurance company or a pension institution must provide information on the plan and financial situation of the company or institution. Pension foundations need not, however, provide information about the plan. In any case, most of the information on plans is provided by the employer.

ITP: No other legal rules.

Alecta sends a benefit statement to members when they join a plan including information on the estimated old-age, disability and survivor benefits. A

new statement is sent when the situation of the plan member changes (e.g. salary changes, employment changes etc.).

ITPK: Each insurance company must provide members with annual information about their accumulated assets.

SAF-LO: Fora must provide members annually with information on:

- The amount and the development of their assets;
- The administrative fees charged by the respective insurance company.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: Employees do not contribute.

Taxation of employer contributions

All plans: Tax-deductible if the plan does not provide for a replacement rate exceeding 70% of salary.

Employer contributions are subject to social security contributions but are not considered as taxable fringe benefits for employees.

Taxation of investment income

All plans: Taxed at a rate of 15%, but on a prescribed basis reflecting average long-term yield, not actual yield.

Taxation of benefits

All plans: Taxed as earned income.

Regulatory and Supervisory Authorities

Financial Supervisory Authority: Supervises insurance companies, banks and security companies.

The Financial Supervisory Authority (FSA) carries out supervision mainly through the examination of documents submitted by supervised entities and through regular on-site inspections. In the latter case, inspectors must be given access to all information available in books, correspondence, minutes, contracts, internal statistics, cost analyses etc.

FSA may request any necessary information concerning the operation of supervised entities.

FSA may, if necessary and under prescribed circumstances:

- Take appropriate measures to protect the rights of policyholders and to ensure compliance of insurance companies with legal requirements;
- Prohibit or restrict the disposal of the assets of an insurance company;
- Withdraw the license of the insurance company.

All supervised entities must pay a contribution to cover the expenses of the FSA and fees are charged e.g. for licenses. The Ministry of Finance decides the budget for the FSA

Finansinspektionen
P.O. Box 6750
113 85 Stockholm
Sweden
Tel.: (+46) 8 787 80 00
Fax: (+46) 8 241 33 5
Internet: www.fi.se

Pension foundations are supervised by the administrative boards of the 24 counties in which they are established and in some aspects by the FSA. One of the largest is the County Administrative Board of Stockholm.

Länsstyrelsen i Stockholms län
Box 22067
SE 104 22 Stockholm
Tel.: (+46) 8 785 40 00
Fax: (+46) 8 785 40 01
Internet: www.ab.lst.se

The registration authority for insurance companies is the Swedish Companies Registration Office.

Bolagsverket
SE 851 81 Sundsvall

Tel.: (+46) 60 18 40 40
Fax: (+46) 60 12 98 40
Internet: www.bolagsverket.se

United Kingdom

Exchange rate: USD 1.00
equals 0.58 pounds (GBP)

Regulatory Framework

2000: Child Support, Pensions and Social Security Act; introduces State Second Pensions (S2P) which replaced SERPS and alters rules for "contracting-out", on member-nominated trustees and on winding up of occupational pension plans.

1999: Welfare Reform and Pensions Act; defines "stakeholder pensions" and requires that employers must provide access to them, specifies rules for pensions sharing on divorce.

1995: Pensions Act; establishes the Occupational Pensions Regulatory Authority (Opra) and the Pensions Compensation Board, sets requirements for certification of contracted-out plans, requires the establishment of internal dispute resolution mechanisms and equal treatment of men and women and establishes minimum funding requirements for defined benefit plans.

1993: Pension Schemes Act; consolidates earlier law on occupational and personal pension plans, including requirements to "contract-out" of state scheme, protection of early leavers, protection of rights and the role of the Pensions Ombudsman.

1992: Social Security Contributions and Benefits Act; consolidates earlier law setting out benefits in the state scheme to be given up by members of "contracted-out" occupational and personal pension plans.

1990: Social Security Act (now consolidated into later acts); establishes the Pensions Ombudsman.

1989: Finance Act; introduces a limitation on the amount of earnings on which benefits and contributions of subsequent members of tax-approved plans may be based.

1988: Income and Corporation Taxes Act; defines the rules regarding the tax qualification of company pension plans.

1975: Social Security Pensions Act; introduces the State Earnings Related Pension Scheme (SERPS) implemented April 1978 (and now replaced by S2P).

Occupational pension plans were first introduced by the 1834 Superannuation Act long before social security pensions.

Plan Profile

Plan sponsors

The 1975 Social Security Pensions Act made it compulsory for employees to contribute to either the State Earnings Related Pension Scheme (SERPS), now State Second Pension (S2P), or to an alternative complementary pension plan in addition to the Basic State Retirement Pension.

Employers, or groups of employers in a particular industry, may, on a voluntary basis, provide an occupational pension plan for some or all of their employees. Employer participation in industry-wide plans is also voluntary. The few "industry-wide" plans which exist are normally in industries where the workforce movesfrequently from employer to employer within the same industry, e.g. the construction industry, or in formerly state-run industries which have been privatized.

Employers who do not provide an occupational pension plan or contributions to a personal pension of a specified level must offer access to a stakeholder pension (see section Coverage).

The self-employed and individual employees who are not members of an occupational pension plan (and in many cases those who are also members of an occupational pension plan) and any other residents of the United Kingdom may voluntarily establish personal pension (money purchase) plans.

Types of plans

S2P: State Second Pension to which all employees earning above the Lower Earnings Level (LEL)

- GBP 77 a week from 6 April 2003, the same amount as the Basic State Pension - must contribute unless they are contracted-out of the scheme. All employees have the option of contracting-out, whether through an occupational pension plan or a personal pension plan.

Where employees are "contracted-out" of S2P, they give up some or all of the S2P benefits that would otherwise accrue as a result of their contributions, in return for reductions in, or rebates of, social security contributions for both employees and their employers. The alternative pension provision, whether from an occupational or a personal pension, must be of a certain standard which broadly ensures that an individual should not be worse off as a result of contracting-out of S2P.

Information on S2P is not covered further in the following sections.

Occupational pension plans: Employer-provided occupational pension plans can be on a number of bases which are treated differently for tax purposes. The possible types of occupational pension plans are listed below.

Unapproved plans: Plans are established without reference to the Inland Revenue Savings, Pensions, Share Schemes. Plans are sometimes set up in order to provide pension benefits in excess of those allowed for exempt-approved plans (e.g. for senior executives and other high earners). These plans may not be used for contracting-out of S2P.

Tax-approved pension plans: Plans must be established under the Income and Corporation Taxes Act 1988 and be approved by the Inland Revenue Savings, Pensions, Share Schemes. Plans are sometimes set up in order to provide pension benefits in excess of those allowed for exempt-approved plans (e.g. for senior executives and other high earners). These latter plans may not be used for contracting-out of S2P.

Exempt-approved pension plans: Any private-sector occupational pension plan may apply to the Inland Revenue to receive "exempt-approved" tax status if benefits are within a certain prescribed maximum and the level of funding is not excessive. The main requirements to be granted exempt-approved status are set out in sections 590 and 591 of the Income and Corporation Taxes Act 1988 and include that:

- The employer contributes at least 10% of total contributions to the plan;
- The plan must be established for the sole purpose of providing relevant benefits in respect of services as an employee; and
- The plan must be established in connection with a business carried out in the United Kingdom by a person resident in the United Kingdom. Although a plan does not have to be established in the United Kingdom it must have a UK resident agent if it is established overseas.

Exempt-approved plans may be established on either a defined benefit or defined contribution basis. Under the Pensions Act 1995 exempt-approved defined benefit plans must hold a minimum level of funds (Minimum Funding Requirement - MFR).

Exempt-approved defined contribution plans may be designated as stakeholder pensions under the Welfare Reform and Pensions Act 1999 if they meet certain conditions. Stakeholder pensions are targeted at those earning between GBP 10,000 and GBP 20,000 per year but are available to almost everybody, including people in employment, fixed contract workers, the self-employed and the nonemployed. It is also possible for someone to make contributions to their nonworking partner's stakeholder pension on their behalf, or to pay into a child's stakeholder or personal pension plan.

Public Sector pension plans: Plans established under arrangements for public-sector workers are treated for tax purposes in the same way as exempt-approved plans.

As the vast majority of employees who have an occupational pension plan belong to exempt-approved or public-sector contracted-out plans only information concerning legal and other requirements for these types of plans are included in later sections. These are designated hereafter as Contracted-out occupational pension plans.

Contracted-out occupational pension plans: Exempt-approved plans and plans established under different arrangements for public-sector employees may apply to the Inland Revenue National Insurance Contributions Office to be contracted-out of S2P. Defined contribution plans may contract out on a protected rights basis (see section Benefit structure / formula). Defined benefit plans may contract out either on a protected rights basis if they offer a money purchase underpin, or, as is more often the case, on a reference scheme test basis (see section Benefit structure / formula).

Plans must register with the supervisory authority, the Occupational Pensions Regulatory Authority (Opra).

Plans must allow members to pay additional voluntary contributions (AVCs) to the plan up to the maximum allowed by the tax legislation for relief purposes (15% of yearly earnings) to enable them to earn a higher pension. Employees may choose instead to pay additional voluntary contributions to a separate plan in which case the contributions are known as free standing additional voluntary contributions (FSAVCs).

Personal pension plans (including personal stakeholder pensions): These are always defined contribution and may be established by:

- Employees whose employers do not offer an occupational pension plan, or who have opted out of their employer's occupational pension plan. These plans may be used for contracting-out of S2P if the employee so wishes;
- Employees who are members of a not contracted-out occupational pension plan, and who wish to contract-out of S2P on an individual basis;
- Members of defined contribution plans which have opted for the new tax regime and any other employees who earn less than a specified limit (GBP 30,000 a year in 2003). These plans may be used for contracting-out of S2P by employees who are not contracted-out by virtue of their membership of an occupational pension plan;
- The self-employed (for whom the question of contracting-out is not relevant, as they cannot be members of S2P);
- The nonemployed who are residents of the United Kingdom.

Where a personal pension is contracted-out, it must meet the Protected Rights test (see section Financing / investment - subsection on other sources of funds). Personal pension plans which meet certain conditions may be designated as stakeholder pensions under the Welfare Reform and Pensions Act 1999. Stakeholder pensions are targeted at those earning between GBP 10,000 and GBP 20,000 per year but are available to almost everybody, including people in employment, fixed contract workers, the self-employed and the nonemployed. It is also possible for someone to make contributions to their nonworking partner's stakeholder pension on their behalf, or to pay into a child's stakeholder or personal pension plan.

Institutional Framework

Contracted-out occupational pension plans: Exempt-approved occupational pension plans are set up for tax reasons under a trust as a separate legal entity, subject to trust law which provides legally enforceable rights for the beneficiaries. At least one-third of the trustees must be elected from the members of the plan unless the membership agrees otherwise. Plans with over 100 members must have a minimum of two employee trustees and those with fewer than 100 members must have a minimum of one employee trustee. A person who has been convicted of an offence of dishonesty and deception,has been bankrupt, or has been disqualified as a director of a company, may not be a trustee. Neither the plan auditor nor the plan actuary can be a trustee of the plan.

Trustees have specific responsibilities under the Pensions Act 1995, of which the main ones are:

- Preserving the assets of the plan and applying them and the income therefrom in trust for plan members (fiduciary responsibilities);
- Appointing the plan auditor and actuary;
- Ensuring requirements are met regarding auditing the plan and the publication of accounts; that full actuarial valuations are done every three years; the publication of an annual report and disclosure

of certain information to plan participants such as conditions of membership, individual rights, the identity of trustees and advisors etc.;
- Establishing investment principles and monitoring their implementation, including ensuring that restrictions on self-investment in the sponsoring company are met;
- Establishing an internal disputes procedure;
- Agreeing with the employer the level of contributions.

The management of contribution and benefit administration may be undertaken by employees of the trust or it may be contracted to a pension management company or financial institution by the trustees.

Plans may also be "insured" whereby the management of the plan contracts with an insurance company to either provide pension benefits or invest contributions. Large employers' plans tend to be self-managed by the trust whereas small employers' plans are frequently insured.

Personal pension plans: Financial institutions such as banks, insurance companies, unit trust (mutual fund) groups, friendly societies etc. which are authorized under the Financial Services and Markets Act 2000 may offer personal pension plans on a defined contribution (money purchase) basis.

Employers may also enter into an agreement with a personal pension provider whereby the employer arranges for the employees to take out a personal pension plan. These plans are known as group personal pensions (GPPs). Lower costs for the provider arising from economies of scale may (at least in part) be passed on to the members of the plan in the form of lower charges.

Personal pension plans may be established either in trust (similar to contracted-out occupational pension plans) or as a deed poll (type of legal document).

Coverage

All public- and private-sector employees (except those earning below the Lower Earnings Level (LEL) for national insurance contributions - GBP 77 per week from 6 April 2003) must be covered by either S2P or a contracted-out occupational or personal pension plan.

Employees may choose to join the occupational pension plan provided by their employer or opt instead to contribute to a personal pension plan.

An employer who has five or more employees must for all "relevant employees" (broadly employees aged 18 and over with earnings more than the LEL) offer one of the following options:

- Membership of an occupational pension plan (which may be conditional on the employee having been employed for at least a year);
- Membership of a group personal pension plan which meets certain conditions with contributions deducted from earnings and contributions from the employer of at least 3% of earnings (matching contributions from employees may be required);
- Access to a stakeholder pension plan meaning that employee contributions are deducted from earnings.

Self-employed workers may also establish a personal pension plan. Nonemployed residents of the United Kingdom may establish a stakeholder pension. Many members of occupational pension plans may establish supplementary (personal) stakeholder pension plans.

Divorced former spouses of pension plan members may be offered membership of the plan where a pensions sharing order has been made on divorce.

Employers' occupational pension plans cannot discriminate between men and women or part-time and full-time workers. Different plans or benefit levels may, however, be provided for different types of workers (such as salaried employees and wage-earners) although in practice most have now been uniformized and only senior executives still frequently have separate arrangements.

Financing / Investment

Sources of funds

Employee contributions

Contracted-out occupational pension plans: Plans can be contributory or noncontributory. The plan rules determine whether the employee contributes and at what rate.

In addition to the contributions to the employer's occupational pension plan, employees may make additional voluntary contributions (AVCs) to the employer's occupational pension plan or to a separate plan (Free Standing Additional Voluntary Contributions - FSAVCs). Total personal contributions cannot exceed the Inland Revenue limit of 15% of annual earnings (with a ceiling of GBP 97,200 per year from 6 April 2003).

Personal pension plans: Employees may contribute within a certain maximum percentage of earnings up to the annual earnings cap of GBP 97,200 per year (see section Tax treatment). Contributions to stakeholder pensions are limited to the higher of GBP 3,600 per year or the percentage limit for a personal pension (see section Tax treatment).

Employer contributions

Contracted-out occupational pension plans: In order to receive exempt-approved status, the employer must contribute to the plan (minimum must be broadly 10% of total contributions).

If a defined benefit plan (Contracted-Out Salary Related Schemes - COSRS), the employer pays either a fixed percentage of the employee's earnings or, more usually, whatever is needed according to the actuarial valuation to ensure the plan has sufficient assets to meet its liabilities.

If a defined contribution plan (Contracted-Out Money Purchase Schemes - COMPS), the employer pays a fixed percentage of some or all of the employee's earnings according to plan rules. The minimum contribution from the employer and the employee combined must be at least as great as the reduction in National Insurance contributions for members of such plans (2.6% of earnings between the LEL and UEL - GBP 77 and GBP 595 per week from 6 April 2003).

Personal pension plans: Not compulsory and comparatively unusual. However, if provision of a personal pension plan is to exempt an employer from the requirement to give access to a stakeholder pension, the employer must pay a contribution of at least 3% of earnings (which can be conditional on the employee paying the same).

Other sources of funds

Contracted-out occupational pension plans: Both employer and employee pay a reduced rate of National Insurance contributions. For defined benefit plans (COSRS) there is no connection between the reduction in National Insurance contributions and the contributions actually paid into the plan. The Government Actuary calculates every 5 years the reduction in National Insurance contribution sufficient to compensate members of contracted-out defined benefit plans on average for the value of state benefits given up.

For defined contribution plans (COMPS) an amount at least equal to the combined reduction in National Insurance contributions for employees and employers must be paid into the plan. In addition, an age-related rebate of part of the National Insurance contribution is paid by the Inland Revenue into the plan after the end of each financial year. The reduction in National Insurance contributions and the rebate combined are sufficient to compensate for the value of state benefit given up (as calculated by the Government Actuary). Once invested in the plan these contributions are termed "protected rights".

Personal pension plans: The Inland Revenue pays an age-related rebate and tax relief on the employee's contributions into the personal pension plan via the plan provider after the end of each financial year. This then constitutes the "protected rights". As with other forms of contracting-out rebate, the Government Actuary has a statutory duty to calculate the rebate as the value of the benefits given up.

Methods of financing

Contracted-out occupational pension plans: Usually funded but some public-sector plans, such as that for civil servants, may be pay-as-you-go or notionally funded (e.g. Teachers and National Health Service workers).

Statutory minimum level of funding for all defined benefit plans (COSRS) except public-sector plans (see section protection of rights - subsection on financial and technical requirements / reporting).

Personal pension plans: Funded.

Asset management

All plans: Manager of fund (in which plan assets are invested) must be approved under the Financial Services and Markets Act 2000. Prudent person principle (requirement to exercise powers with the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others) applies.

Contracted-out occupational pension plans: Occupational pension plans can be "self-administered" (operates its own fund or invests the plan assets in one or more managed funds provided by financial institutions authorized under the Financial Services and Markets Act 2000) or they can be "insured" (contracts with an insurance company to either provide pension benefits or invest contributions).

In all cases the trustees must draw up a "statement of investment principles", drawing on the advice of "investment experts", and following consultation with the sponsoring employer. The statement of investment principles must cover the kinds of investments to be held, the balance between different kinds of investments, and the extent to which the trustees take into account ethical, social and other considerations in formulating investment decisions. In some cases members of defined contribution plans can choose to invest in different funds operated by investment managers on behalf of the plan.

"Self-investment" in the sponsoring company is restricted to 5% of the plan assets.

Personal pension plans: It is common for members of personal pension plans to be able to choose to invest in different funds operated by the plan provider or by outside investment managers. Where the plan provides for the individual member to control investment decisions, the plan administrator must, nonetheless, ensure all tax rules are met.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Contracted-out occupational pension plans: May be based on age of entry (usually between 18 and 25) and optionally one or two years of employment in the company.

Some employers review such waiting periods in the light of the need to offer access to stakeholder pensions to employees excluded from occupational pension plans.

Personal pension plans: Not applicable.

Vesting rules

Contracted-out occupational pension plans: Compulsory after two years of qualifying employment.

If an employee leaves the company before vesting applies, their own contributions are refunded. Members of a defined benefit plan (COSRS) are not entitled to interest on the contributions refunded. Members of a defined contribution plan (COMPS) have the right to the accumulated capital in the pension fund which includes the interest or investment return earned on the account at any one time. The refund is subject to tax at 20%. Such a refund of contributions must be accompanied by reinstatement in S2P by payment of a "contributions equivalent premium", the cost of which may be deducted from the refund of contributions.

Personal pension plans: Immediate vesting.

Preservation, portability, transferability

Contracted-out occupational pension plans: In a defined benefit plan (COSRS) the pension rights of those who leave pensionable employment before plan normal pension age must be preserved and revalued at the rate of increase in the Retail Price Index up to a maximum of 5% per year (calculated cumulatively). Slightly different rules apply in plans for public-sector employees. Defined contribution plans (COMPS) must increase rights in line with investment returns.

Rights are generally not portable to another employer (unless an industry-wide plan and the move is to another participating employer).

Plan members are entitled by law to a transfer payment which may be used to transfer pension rights from one occupational pension plan to another, to a personal pension plan of which the employee is a member, or to purchase an annuity from an insurance company. Plans are not obliged to accept transfers. For defined benefit plans (COSRS) such transfers are effected by calculating the cash equivalent transfer value of the member's rights in the plan. The cash equivalent transfer value must be calculated in line with actuarial guidance and must be on a market-related basis. The minimum value must be the statutory minimum funding requirement liability of the member.

Special rules apply to transfers from occupational pension plans to personal pension plans and include:

- Providing an explanation in writing of why moving from an occupational pension plan to a personal pension plan is best advice;
- Using the same assumptions to project the returns on the occupational and personal pension assets;
- Using a computerized transfer value analysis for all calculations to increase the degree of objectivity;
- Allowing only specially trained individuals to conduct such transfers;
- Double-checking such advice with insurance companies.

Personal pension plans: Portable and transferable.

Retirement benefits

Benefit qualifying conditions

Contracted-out occupational pension plans: All plans should now provide the same retirement age for men and women, usually 65, but sometimes 60. Frequently executives have a lower retirement age than others.

Early retirement is possible under most plans, with or without actuarially reduced benefits depending on personnel needs of sponsoring employers. Inland Revenue allows early retirement from age 50 for tax purposes (earlier for retirement on grounds of incapacity).

In some defined contribution plans (COMPS), a pension derived from protected rights cannot commence until age 60.

Pensions cannot be deferred beyond the age of 75.

Employees must usually retire from employment with the company which sponsors the occupational pension plan. They may, however, take up other employment elsewhere and still receive the pension.

Personal pension plans: A pension may be taken at any time between age 50 and 75, regardless of when the individual actually retires. However, for the benefits derived from the protected rights, age 60 is the minimum.

Benefit structure / formula

Contracted-out occupational pension plans: Defined benefit (Contracted-out Salary Related Schemes - COSRS) or defined contribution (Contracted-out Money Purchase Schemes - COMPS). Plans may also be a mixture of defined benefit and defined contribution elements (known as Contracted-out Mixed Benefit Schemes - COMBS).

For an occupational plan to be contracted-out of S2P (i.e. both employee and employer pay reduced rates of National Insurance contributions) the plan must meet one of the following two tests which relate to the basic level of benefit provision.

Reference Scheme Test for COSRS

Plan must be certified by the Plan Actuary as providing at least 1/80 of covered earnings (90% of earnings between the LEL and UEL), averaged over 3 years, for each year of employment (up to a maximum of 40), payable for life from age 65, with half-rate spouse's pension. If the actuary considers that more than 10 per cent of the members would receive benefits below the minimum standard, the plan will not pass the test.

Protected Rights Test for COMPS

The protected rights (see section Financing / investment - subsection on other sources of funds) built up under the plan must be used to buy an annuity on a unisex basis to provide a pension for the employee between ages 60 and 65.

Pension benefits provided by defined benefit plans (COSRS) must be based on average or final salary and length of pensionable service. For tax reasons only a portion of the pension benefits can be taken as a lump sum, the balance must be paid as pension annuities.

Under defined contribution plans (COMPS), an annuity must be purchased at the latest at age 75. If an annuity is not purchased immediately on retirement, the level of income from the pension fund (excluding the element provided by protected rights) which may be "drawn down" in the interim period is a maximum of 100% and a minimum of 35% of what an annuity might have been. The level of income "drawn down" can be varied within these limits each year.

Where the plan rules so provide, the plan may be integrated with the Basic State Pension. Integration is achieved in the case of defined benefit plans (COSRS) by reducing the occupational pension by the Basic State Pension or the proportion accrued from employment to which the plan relates or by reducing pensionable salary by the Basic State Pension. In the case of defined contribution plans (COMPS) integration is achieved by means of excluding earnings below the LEL in the calculation of contributions to be made to the plan.

For tax reasons the total retirement benefit does not normally exceed 2/3rds of final salary.

Personal pension plans: Always defined contribution (money purchase) plans. Accumulated contributions plus value of investments built up under the plan are used to purchase an annuity. When the pension is taken (between ages 50 and 75) up to 25% of the entitlement, excluding the "protected rights", may be drawn as a tax-free lump sum. The balance must be used to purchase an annuity either immediately or after a certain period of drawing down income.

The protected rights element of benefit entitlement must come into payment between the ages of 60 and 75, either through purchase of an annuity for life or after a certain period of drawing down income. The annuity provided by the protected rights must be on a unisex basis.

The amounts remaining in both the protected rights and the nonprotected rights funds after the period of income draw down must be used to buy an annuity by age 75 at the latest.

The Inland Revenue has set rules for determining the maximum and minimum income that can be taken from a pension plan in income draw down. The maximum amount (for nonprotected rights funds) is approximately that income which could be obtained by buying a nonincreasing annuity on a single life of the age of the pensioner from a competitive annuity seller. The Government Actuary's Department produces tables enabling this limit to be calculated on the basis of published yields on UK government stock. The minimum income from such an arrangement is 35% of the maximum income. The maximum and minimum income must be reassessed every three years on the basis of the then value of the fund and yields on government stock. A slightly different basis is used for determining maximum and minimum income that can be drawn from protected rights, reflecting in part the more restrictive rules on discharging such rights.

Benefit adjustment

Contracted-out occupational pension plans: Required each year to increase the pension accruing from employment since April 1997 in line with the increase in the Retail Price Index up to a maximum of

5% a year calculated on a year-by-year basis.

Defined benefit plans (COSRS) must increase "guaranteed minimum pensions" (that part of total rights relating to contracting-out before 1997) accruing between 1988 and 1997 by the increase in the Retail Price Index up to a maximum of 3% a year. For guaranteed minimum pensions accruing between 1978 and 1988 the government pays full indexation through the state pension.

Some plans offer more generous increases on post-1997 rights, for example in line with increases in the Retail Price Index with no maximum or with a maximum of more than 5% a year. Many plans offer voluntary pension increases on rights accrued before 1997 in excess of guaranteed minimum pensions, often on the same basis as for post-1997 rights. Some plans have a certain level of pension increases prescribed in their rules, others offer increases in excess of the statutory minimum at the discretion of trustees.

Personal pension plans: Pension annuities bought with protected rights accrued since 1997 must be raised each year by the increase in the Retail Price Index up to a maximum of 5% a year (maximum of 3% on rights accrued between April 1988 and April 1997).

Survivors

Contracted-out occupational pension plans: Defined benefit plans (COSRS) must provide at least a spouse's pension of 50% of what the member's pension would have been had the member retired (based on the number of years' employment and earnings of the plan member). Defined contribution plans (COMPS) must pay a pension derived from protected rights to a spouse with dependent children or if aged at least 45 at the death of the plan member.

Personal pension plans: Protected rights must provide at least 50% of the pension derived from the protected rights on death of the plan member after state pension age (not required for protected rights accrued after 1997 when the member is unmarried at state pension age). May be a lesser amount if death of plan member is earlier.

Disability

All plans: No legal rules.

Contracted-out occupational pension plans: Some defined benefit plans (COSRS) provide for disability benefits. Usually these are a percentage of current earnings or the same as the pension payable at normal retirement age, but at current earnings, and based on either actual service to date or actual service to date plus potential service to normal retirement age.

Employers with defined contribution plans or defined benefit plans which do not provide disability benefits sometimes take out specific disability insurance to provide disability benefits. In case of permanent disability, these usually provide benefits of between 50% and 75% of salary.

Social security disability benefits may be reduced for those in receipt of such disability income insurance or pensions from occupational pension plans.

Protection of Rights

Protection of Assets

Contracted-out occupational pension plans: Plans must be set up as trusts so that the plan assets are held completely separately from the general assets of the sponsoring company. In case of company insolvency, company creditors cannot claim against the assets of the pension plan. Rights of plan members are generally protected in the event of personal bankruptcy.

Personal pension plans: Plans may be set up as trusts (similar to contracted-out occupational pension plans) or as a deed poll. Plan providers (see section Institutional framework) are subject to the regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Financial and Technical Requirements / Reporting

Contracted-out occupational pension plans: Since April 1997, private-sector defined benefit plans (COSRS) must comply with the minimum funding requirement (MFR). This requirement is not a solvency standard as such but was intended broadly to ensure that in the event of a plan being wound up (e.g. due to the insolvency of the employer) there are sufficient funds in the plan to continue paying members whose benefits are already in payment (or to purchase an annuity from an insurance company for such members) and to pay minimum transfer values for other members. Where a plan is less than 100% funded on the minimum funding requirement basis, additional contributions must be paid to restore the funding level to 100% after 10 years (and in the case of serious underfunding to 90% after 3 years). In all cases the trustees of the plan must prepare a schedule of contributions showing contributions which are sufficient to maintain the funding level of the plan (to include these additional contributions to restore the funding level where necessary). This schedule must be certified as being sufficient by the plan actuary.

Defined benefit plans (COSRS) are subject to actuarial valuation and certification at least once every 3 years. The results of these valuations must be disclosed to plan members and to other interested parties.

Trustees must arrange to have audited accounts or an auditor's statement within seven months of the end of the plan financial year.

Personal pension plans: Plan providers (see section Institutional framework) are subject to the regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Whistleblowing

Contracted-out occupational pension plans: Plan auditors and actuaries are required under the Pensions Act 1995 to notify Opra of any relevant breach of a statutory requirement or other misdemeanour.

Personal pension plans: Plan providers (see section Institutional framework) are subject to the regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Standards for service providers

Contracted-out occupational pension plans: A plan actuary must either be a fellow of the Faculty of Actuaries, fellow of the Institute of Actuaries or be approved by the Secretary of State. If they are a fellow of the Faculty or the Institute, they must hold a current practicing certificate issued by their professional body. Plan actuaries must be named individuals and not firms (although the individual will usually work for a firm of actuaries or an insurance company).

A plan actuary must not be:

- A plan trustee;
- Connected with a plan trustee (certain exceptions apply).

A plan auditor must have certain professional qualifications and must be registered with one of the following professional bodies:

- Institute of Chartered Accountants in England and Wales;
- Association of Chartered Accountants;
- Institute of Chartered Accountants in Scotland;
- Institute of Chartered Accountants in Ireland.

A plan auditor must not be:

- A plan trustee or an employee of the trustees;
- A plan member;
- A sponsoring employer or an employee or partner of a sponsoring employer;
- Connected with a plan trustee (certain exceptions apply).

Personal pension plans: Manager of the fund (in which the plan assets are invested) must be approved under the Financial Services and Markets Act 2000.

Fees

Contracted-out occupational pension plans: No legal rules.

Personal pension plans: Annual management charges for stakeholder pension plans must not exceed 1% of the value of the pension fund.

Winding up / Merger and acquisition

Contracted-out occupational pension plans:
In the event that a plan is wound up, there is a prescribed order in which the liabilities of the plan must be met. The exact order depends on when the winding up of the plan commenced. Broadly, rights for pensions already in payment take priority over rights to members who have not yet retired. Certain rights, such as those in respect of additional voluntary contributions and certain expenses, take priority over all other rights.

In case of company insolvency, company creditors cannot claim against the assets of the pension plan.

Personal pension plans: Plan providers (see section Institutional framework) are subject to the regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Bankruptcy: Insolvency Insurance / Compensation Fund

Contracted-out occupational pension plans:
The Pensions Act 1995 established the Pensions Compensation Board that administers a compensation scheme to compensate members of occupational pension plans where the sponsoring employer is insolvent and assets have been misappropriated. The Board has at least three members appointed by the Secretary of State for Social Security and is funded from a levy made on occupational pension plans.

Compensation is limited to the lower of:

- 90% of missing assets; or
- The amount needed to meet 90% of liabilities.

Group insurance plans must be covered by (mutual) insurance compensation arrangements covering 90% of the investment in the case of bankruptcy of the insurance company.

Personal pension plans: Plan providers (see section Institutional framework) are subject to the regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Disclosure of information / Individual action

Contracted-out occupational pension plans:
A comprehensive range of information must be disclosed to members, including;

- The trust deed and rules;
- Eligibility and conditions of membership;
- Vesting and portability (in defined benefit plans);
- Calculation of contributions;
- Type and level of benefits and conditions of entitlement;
- Information on options of retirement to retiring members and early leavers;
- Annual report of the plan. The report must account for matters such as the collection of contributions and payment of benefits, the investment of the plan assets and the actuarial valuation of the plan assets and liabilities. The report must also disclose whether more than 5% of the plan assets are invested in the sponsoring employer or in any one shareholding or property.

Plan trustees are required to set up an internal disputes procedure. Plan members, if still dissatisfied after using the internal dispute procedure, may take their complaint to the Pensions Ombudsman who will investigate the complaint and may require plan trustees to take certain action or may require them to pay compensation. It is possible to appeal a decision of the Ombudsman on a point of law to the High Court.

Personal pension plans: Plan providers (see section Institutional framework) are subject to the regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Other measures

Contracted-out occupational pension plans: None.

Personal pension plans: Plan providers (see section Institutional framework) are subject to the

regulation and supervision of financial institutions by the Financial Services Authority (FSA) in accordance with the Financial Services and Markets Act 2000.

Tax Treatment

Taxation of employee contributions

Contracted-out occupational pension plans: Tax-exempt up to 15% of earnings (up to the annual earnings cap of GBP 97,200 from 6 April 2003).

Personal pension plans: Tax-exempt if total contributions are within a certain maximum percentage of earnings (up to earnings cap of GBP 97,200 per year from 6 April 2003) depending on age (ranging from 17.5% if age 35 or under to 40% if age 61 or over).

Taxation of employer contributions

Contracted-out occupational pension plans: Tax-exempt.

Personal pension plans: See section Taxation of employee contributions.

Taxation of investment income

Contracted-out occupational pension plans: Tax-exempt. However, cannot now recover withholding tax on dividends from UK equities (dividends are paid net of tax). If the funding level of a defined benefit plan exceeds 105%, investment income on excess assets is taxed.

Personal pension plans: Same as contracted-out occupational pension plans.

Taxation of benefits

Contracted-out occupational pension plans: Taxed but maximum 150% of final salary may be taken as a tax-free lump sum.

Personal pension plans: Taxed but up to 25% of (nonprotected rights) assets can be taken as a tax-free lump sum.

Regulatory and Supervisory Authorities

Inland Revenue Savings, Pensions, Share Schemes: Responsible for granting approval of occupational pension plans for tax purposes.

Inland Revenue
Yorke House
PO Box 62
Castle Meadow Road
Nottingham
NG2 1BG
United Kingdom
Tel.: (+44) 115 974 1600
Fax: (+44) 115 974 1480
Internet: www.inlandrevenue.gov.uk

Inland Revenue National Insurance Contributions Office: Responsible for contracting-out arrangements and certification of occupation pension plans.

Inland Revenue National Insurance Contributions Office
Services to Pensions Industry
Chillingham House
Benton Park View
Benton Park Road
Longbenton
Newcastle Upon Tyne
NE98 1ZZ
United Kingdom
Tel.: (+44) 845 915 0150

Occupational Pensions Regulatory Authority (Opra): Supervises the operation of occupational pension plans and pension trustees.

Opra has powers to disqualify individuals from acting as plan trustees, may impose penalties on trustees and plan advisers, may wind up plans and take court action to prevent misuse of plan assets and order the restitution of misappropriated assets.

Opra is funded from a levy made on occupational pension plans.

Occupational Pensions Regulatory Authority
Invicta House
Trafalgar Place
Brighton
BN1 4DW
United Kingdom
Tel.: (+44) 127 362 7600
Fax: (+44) 127 362 7688
Internet: www.opra.gov.uk

Pension Ombudsman: Person to whom plan members and dependents may complain and who has authority to rule on disputes between plans and their members.

Pension Ombudsman
11 Belgrave Road
London SW1V 1RB
United Kingdom
Tel.: (+44) 207 233 8080
Fax: (+44) 207 233 8016
Internet: www.pensions-ombudsman.org.uk

Financial Services Authority (FSA): Responsible for regulating financial institutions who may be pension plan providers. Reports directly to Her Majesty's Treasury.

Financial Services Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS
United Kingdom
Tel.: (+44) 207 676 1000
Fax: (+44) 207 676 1099
Internet: www.fsa.gov.uk

EUROPE - Mandatory

Information valid at 01-01-2006

Bulgaria

Exchange rate: USD 1.00
equals 1.65 leva (BGL)

Regulatory Framework

2003: Social Insurance Code; regulates the publicly managed social security scheme and mandatory and voluntary private pension schemes and the establishment and licensing of pension insurance companies. It also regulates issues related to mandatory and voluntary private pension schemes such as the issuance of permits for establishment and management of universal, occupational and voluntary pension funds, coverage, investment of fund assets, accounting and reporting rules for funds and managing companies, and fees.

2003: Financial Supervision Commission Act; provides for the establishment, scope of activities, structure, functions, and operation of the Financial Supervision Commission (FSC).

Types of Schemes

All covered persons must become a member of a mandatory private pension scheme by joining a universal pension fund established and managed by a pension insurance company.

Mandatory private pension schemes are defined contribution schemes and contributions accumulate in individual accounts.

Covered persons must join a universal pension fund by applying to the pension insurance company of their choice within 3 months of becoming covered by the publicly managed social security scheme. Membership is based on a contract between the individual and the pension insurance company.

Employed persons under labour categories I and II (i.e. employees working under harmful conditions) must, in addition to the universal pension fund, become a member of an occupational pension fund.

Occupational pension funds are established and managed by a pension insurance company to provide for the payment of early retirement benefits until retirement age (see section Retirement benefits). Occupational pension funds are not employer-sponsored funds and individuals join them by applying to the pension insurance company of their choice, independently of their employers. The Council of Ministers determines which occupations are classified in the respective labour categories.

Scheme members or their employers do not have the right to pay contributions in addition to those defined in the Social Insurance Code (SIC) on an annual basis. They may, however, contribute to a voluntary pension fund, which is separate from the mandatory universal or occupational pension fund.

Voluntary private pension schemes are not covered further in the following sections.

Institutional Framework

All funds: Universal and occupational pension funds are independent legal entities created and managed by a pension insurance company which is a licensed joint-stock company.

The single business aim of pension insurance companies must be the establishment and management of universal and occupational pension funds. A pension insurance company may only establish and manage one universal and one occupational pension fund.

Pension insurance companies must have a minimum capital of BGL 5 million and obtain a license from the Financial Supervision Commission (FCS).

Founders of pension companies may be:

- Bulgarian individuals or legal entities;
- Foreign legal entities provided they are registered as a social insurance, insurance or financial institution under their domestic law and if they present bank references from a first rate international bank confirmed by the Bulgarian National Bank. These entities may hold shares in only one pension company carrying out activities

in the country.

The members of the managing and supervisory boards of pension insurance companies must:

- Be university graduates;
- Not have been convicted for intentionally committed crimes of general nature;
- Not have been members of managing or controlling bodies or unlimited liability partners in a commercial company or cooperative closed down for bankruptcy, if unsatisfied creditors remain or if bankruptcy proceedings have been initiated;
- Not have been members of managing or controlling bodies of commercial banks, which have been declared bankrupt or are undergoing bankruptcy proceedings;
- Not have been deprived of the right to hold positions related to the holding of financial liability;
- Not be related down to the fourth degree, inclusive, by direct or lateral kinship or connected by marriage;
- Not be members of a managing or controlling body of another company in the same business;
- Not be members of managing or controlling bodies of the legal entities or be among the individuals included in the list under the Non-Serviced Credits Information Act;
- Not still carrying out, or have carried out, security services (i.e. a commercial business ensuring protection to natural and legal persons or to the property thereof against criminal trespass) or similar business;
- Not have been partners or shareholders, as well as members of a managing or controlling body of a commercial company, which carries out security services or similar business.

The Chairman of the Managing Board, the Chairman of the Board of Directors, the Executive Director, the managing agent and the actuary of a pension insurance company must have a permanent residence in Bulgaria or a permit for extended stay in Bulgaria.

The operating rules of the pension insurance company, as well as their amendments, must be approved by the FSC.

Pension insurance companies must:

- Be in compliance with legal requirements;
- Inform the members and employers of the operating rules and all their amendments and supplements;
- Provide members with annual statements of their individual accounts and information on the fees deducted;
- Pay benefits in compliance with contractual requirements;
- Make transfer payments to another pension insurance company if so requested.

Each pension insurance company must establish a board of trustees consisting of an equal number of representatives of the national federation of employers and the national trade union federation plus one member representing the pension insurance company. The board of trustees may make proposals on issues related to scheme management, but has a strictly advisory role.

A licensed pension insurance company must apply to the FSC and obtain permission to manage a universal and an occupational pension fund. The following documents must be submitted to the FSC:

- The decision of the general meeting of the licensed pension company for the establishment of a universal or an occupational pension fund;
- The Rules of Organization and Operation of the universal or occupational pension fund;
- Actuarial projections concerning the offered pension funds and the full name and details of the actuary;
- Samples of social insurance and pension contracts;
- Preliminary contracts with a custodian bank and a broker dealer;
- Financial statement of the pension insurance company as of the end of the previous month;
- Information on the software and hardware of the fund's IT system;
- Information on the organizational structure of the company and its staffing;
- A certificate of current legal status of the pension insurance company.

After obtaining permission for management of a

mandatory pension fund, the pension insurance company must file an application with the responsible District Court for registration of the pension fund and submit, among others, the following documents to the court:

- Permit for management of the respective pension fund;
- The Rules of Operation and Organization of the respective pension fund;
- The decision of the general meeting of the pension company for the establishment of the mandatory pension fund;
- The resolution of the general meeting of the company about the incorporation of the mandatory pension fund;
- A certificate of current legal status of the pension insurance company;
- A list of all members of the managing bodies of the pension insurance company;
- The license of the pension insurance company;
- Full name and details of all persons managing and representing the pension insurance company.

The respective District Court must review the application for registration within 14 days following its receipt. The name of the fund, headquarters and management address of the pension insurance company establishing the fund as well as the details of the pension insurance company's representatives are then entered into the court register.

Pension funds do not have separate managing bodies. The managing board or board of directors of the pension insurance company is also the managing body of the fund and its tasks include affiliation of members, benefit administration, portfolio management, pension payments, disclosure of information to members, marketing, internal control and ensuring compliance with legal requirements.

Contributions to a mandatory private pension scheme are part of the total social security contribution collected by the National Revenue Agency that transfers the contributions to the respective funds.

Coverage

Covered population

Mandatory universal funds: Public- and private-sector employees and self-employed persons born after 31 December 1959 must become members of mandatory universal funds.

Mandatory occupational funds: All employees regardless of their age who work in occupations classified in labour categories I and II (i.e. employees working under harmful conditions) must become members of mandatory occupational funds. The Council of Ministers determines which occupations are classified in the respective labour categories.

Enforcement of affiliation

All funds: Eligible persons who have not chosen a mandatory universal fund (and a mandatory occupational fund, if required) within 3 months after taking up employment are affiliated to one of the registered universal funds (and a mandatory occupational fund, if appropriate).

The random allocation of members who have not chosen a fund is undertaken by the National Revenue Agency (NRA) four times a year. The pension funds to which members may be allocated are determined by specific criteria.

Financing / Investment

Sources of funds

All funds: Contributions to mandatory private pension schemes are part of the total social security contribution and are determined in the Social Insurance Code.

Member contributions

Mandatory universal funds: 1.4% of insured salary (i.e. 35% of the total employer and employee contribution of 4%); rising to 2% (i.e. 40% of the total employer and employee contribution of 5%) in 2007.

Self-employed persons contribute 4% of declared

earnings; rising to 5% in 2007.

The minimum monthly earnings considered for contribution purposes in 2006 are between BGL 160 and BGL 756 for employees, BGL 220 for self-employed persons and between BGL 55 and BGL 110 for agricultural workers.

The maximum monthly earnings considered for contribution purposes are BGL 1,400 in 2006.

Mandatory occupational funds: None.

Employer contributions

Mandatory universal funds: 2.6% of insured salary (i.e. 65% of the total employer and employee contribution of 4%); rising to 3% (i.e. 60% of the total employer and employee contribution of 5%) in 2007.

The minimum monthly earnings considered for contribution purposes in 2006 are between BGL 160 and BGL 756 for employees and between BGL 55 and BGL 110 for agricultural workers.

The maximum monthly earnings considered for contribution purposes are BGL 1,400 in 2006.

Mandatory occupational funds: 7% for employed persons under labour category I and 12% for employed persons under labour category II.

The minimum monthly earnings considered for contribution purposes in 2006 are between BGL 160 and BGL 756 for employees and between BGL 55 and BGL 110 for agricultural workers.

The maximum monthly earnings considered for contribution purposes are BGL 1,400 in 2006.

Other sources of funds

All funds: None.

Methods of Financing

All funds: Funded in individual accounts.

Asset Management

All funds: Each pension insurance company may establish and manage only one universal and one occupational pension fund.

Pension insurance companies are responsible for the management of fund assets.

Fund assets must be invested collectively with the care of a prudent person in observing the principles of reliability, liquidity, profitability and diversification in the best interest of members. The investment return is allocated to the individual accounts in proportion to their share of the total fund assets.

Pension fund assets may be invested in:

- Securities issued or guaranteed by the government;
- Securities registered for trading at regulated securities markets;
- Municipal bonds;
- Bank deposits;
- Mortgage bonds issued by local banks pursuant to the Mortgage Bonds Act;
- Derivatives of securities (i.e. put options of indexes and bonds) traded on regulated securities markets only for the purposes of reducing the investment risk;
- Investment property.

Of total fund assets invested:

- Not less than 50% must be invested in securities issued or guaranteed by the government;
- A maximum of 15% may be invested in foreign securities;
- A maximum of 7% may be invested in shares issued by one issuer;
- A maximum of 5% may be invested in investment property;
- A maximum of 5% may be invested in securities issued by one company.

Pension insurance companies must not acquire participation to such an extent that they appoint directly or indirectly more than half of the board members of an issuer, or in any other way exercise decisive influence on decision-making related to the activity of the issuer.

Pension insurance companies must guarantee a minimum rate of return on mandatory pension fund assets. The minimum rate of return is a percentage of the returns achieved by all funds of the same type in the last 24 months. It is calculated separately for

universal and occupational pension funds at the end of each trimester by the Financial Supervision Commission (FSC).

In case a mandatory pension fund does not achieve the minimum rate of return, the pension insurance company administering the fund must, within 10 days from its announcement, cover the difference up to the minimum rate with reserves that have been created specially for this purpose (see section Protection of rights, Financial and Technical requirements / Reporting).

Securities except government bonds held by the pension insurance company and the pension fund must be entered in the register of the Central Depository.

Assets of a mandatory pension fund must be kept by one custodian pursuant to a custodian services contract between the pension insurance company managing the fund and the custodian.

All financial resources of the mandatory pension fund must be transferred to the custodian. Within 5 working days, the pension insurance company must give written instructions to the custodian as to the investment of the cash received. At the end of each working day, the custodian must send to the FSC information concerning the cash received, the transactions undertaken and the assets of the mandatory pension funds.

Benefit provisions

Preservation, portability, transferability

All funds: Covered persons must choose one mandatory universal fund and one mandatory occupational fund (if required).

After having been members of their first fund for two years, members may transfer the individual account balances, including all investment returns, to another fund of the respective type. Thereafter, they may transfer once per calendar year.

The pension insurance company managing the former fund must transfer the individual account balance to the new fund. The individual account must be kept in BGL and in units, where each unit represents a proportional part of the fund's net assets. All units in a fund must have the same value and are determined in accordance with the legal requirements.

The pension company may charge an additional fee of up to BGL 20 for every transfer of the individual account balance from one fund to another.

Retirement Benefits

Benefit qualifying conditions

Mandatory universal funds: Eligibility for pension depends on eligibility for a pension under the publicly managed social security scheme.

Retirement age is 63 for men and 58 and 6 months for women provided that the sum of the years of insurance in the publicly managed social security scheme and the years of age is not less than 100 for men and 92 for women (i.e. long-service requirements). The retirement age and sum for women will be gradually increased to 60 and 94, respectively, by 2009.

Where the long-service requirements are not met, retirement age is 65 for both men and women, provided that 15 years of service have been completed of which 12 years must be years of actual service (one year of actual service in certain occupations is recognized as more than one year of service for pension purposes).

An old-age pension for life may be payable 5 years before retirement age with long service (i.e. age 63 for men and age 58 and 6 months for women), provided the individual account balance is sufficient to finance a pension at least equal to the minimum long-service old-age pension (BGL 85 a month) under the publicly managed social security scheme.

Mandatory occupational funds: These funds are specifically established to provide early retirement pensions for employees in labour categories I and II (i.e. employees working under harmful conditions). Occupational pensions for early retirement are paid until the member reaches retirement age.

Members are eligible for early retirement 8 years before retirement age if they have at least 10 years of service in labour category I. Members who have at least 15 years of service in labour category II are eligible for early retirement 3 years before retirement age.

Withdrawal of funds before retirement

All funds: Not permitted.

Benefit structure / formula

Mandatory universal funds: Defined contribution.

Benefits are paid as pensions for life and are determined on the basis of the accumulated capital in the individual account of the member and the mortality tables and technical interest rate approved by the Financial Supervision Commission (FSC).

If the pension is less than 20% of the income-tested social pension (BGL 63 a month) under the publicly managed social security scheme, the accumulated capital may either be paid as a lump sum or be withdrawn gradually over a certain period of time.

Benefits are paid by the mandatory universal fund of which the person is a member. Members cannot buy annuities from other institutions.

Mandatory occupational funds: Defined contribution.

Members of mandatory occupational funds are eligible to receive early retirement pensions that are paid until retirement age. The pension is determined on the basis of the accumulated capital in the individual account of the member, the potential period of receipt of the pension and the technical interest rate approved by the Financial Supervision Commission (FSC).

Upon retirement, members may withdraw in a lump sum or transfer the accumulated capital in their individual accounts from the mandatory occupational fund to a mandatory universal fund, if qualifying conditions for an early retirement pension are not met.

Benefit adjustment

All funds: No legal rules.

The indexation of pensions is determined in the operating rules of pension funds. Benefit adjustments are made with excess investment returns. The rate of adjustment is determined on the basis of the difference between the achieved rate of return and the technical interest rate used for determining the pension amount.

Survivors

Benefit qualifying conditions

All funds: The surviving spouse, descending and ascending relatives are eligible for survivor benefits in the case of death of the member.

Benefit structure

All funds: The accumulated capital in the individual account of the deceased is paid as a lump sum or in the form of regular withdrawals for a limited period of time according to the succession shares under the Succession Act. There is no requirement for survivors to buy annuities.

If there are no survivors, the amount in the individual account is transferred to a pension reserve (mandatory universal pension funds) or to the state budget (mandatory occupational pension funds).

Disability

Benefit qualifying conditions

All funds: Members must be declared permanently disabled by the territorial board of health experts. A reduced capacity in any employment of at least 70.99% is required.

Benefit structure

All funds: A lump-sum payment of up to 50% of the accumulated capital in the individual account of the disabled. There is no requirement for disabled members to buy annuities. The remaining 50% in the individual account is paid under normal conditions at retirement age.

Protection of Rights

Protection of Assets

All funds: Pension fund assets must be held separately from the assets of the pension insurance company managing the fund, since the fund is an independent legal entity. Pension fund assets must not be used to cover losses incurred in connection with establishing the pension insurance company, or for operational losses of the pension insurance company.

Custodians must separate the pension fund assets under custody from their own assets.

Pension insurance companies are materially responsible for losses suffered by the members resulting from poor performance of their obligations related to the management of their respective pension funds.

Financial and Technical Requirements / Reporting

All funds: Pension insurance companies must build up a pension reserve to cover unexpected liabilities or investment returns that are lower than the guaranteed minimum (see below). The upper limit on the amount required in the pension reserve is determined by the Financial Supervision Commission (FSC). Pension insurance companies must not pay any dividends to its shareholders before building up a pension reserve.

An actuary must be appointed to prepare an annual actuarial report, including the status of the pension reserve, and submit it to the FSC.

Pension insurance companies must guarantee a minimum rate of return on the investment of mandatory pension fund assets. The minimum rate of return is a percentage of the returns achieved by all funds of the same type in the past 24-month period. It is calculated separately for universal and occupational pension funds at the end of each trimester by the FSC.

When a mandatory pension fund does not achieve the minimum rate of return, the pension insurance company administering the fund must, within 10 days from its announcement, cover the difference up to the minimum rate with reserves that have been created specially for this purpose.

The pension company must keep separately the accounting of the mandatory universal pension fund and mandatory occupational pension fund it manages and must also prepare separate financial statements for each of them. The company must submit to the FSC monthly reports of the mandatory pension funds under its management within 20 days following the end of each month.

At the end of each financial year, the pension insurance company must prepare separate financial statements for the company and its mandatory universal pension fund and mandatory occupational pension fund in compliance with the provisions of the Accountancy Act, the applicable accounting standards, and the provisions of the Social Insurance Code. The annual financial statements must be audited and verified by certified public accountants or specialized auditing companies.

The audited financial statements must be adopted by the general meeting of the shareholders of the pension insurance company and then be submitted to the FSC and published in the state gazette.

Whistleblowing

All funds: There are no legal requirements for auditors and actuaries to inform the Financial Supervision Commission (FSC) if they believe that the fund is not being managed in compliance with legal requirements.

Custodians must inform the FSC of any violation of legal requirements by a pension company.

Standards for service providers

All funds: The custodian must be a bank selected from a list established and approved by the Bulgarian National Bank in coordination with the Financial Supervision Commission (FSC).

Auditors of financial statements of pension insurance companies and pension funds must be certified public accountants or specialised auditing companies.

Actuarial services may only be provided by a licensed actuary. Licensing of actuaries is carried out by the FSC and applicants are required to demonstrate that they meet specific education, professional qualification and experience criteria.

Fees

All funds: Fees and deductions that may be charged by pension insurance companies are set as an absolute amount or within a specified range in the Social Insurance Code. Fees exceeding the legal limits or types of charges other than those defined in the law must not be charged.

Pension insurance companies may charge a maximum annual investment fee of 1% of the fund assets under management.

The pension company may charge an additional fee of up to BGL 20 for every transfer of the individual account balance from one fund to another.

The actual fees must be set out in the rules of operation of a pension fund, which must be approved by the Financial Supervision Commission (FSC).

Winding up / Merger and acquisition

All funds: Transformation of pension insurance companies may be carried out through merger, acquisition, splitting or spin-off in accordance with the Commercial Act and regulations issued by the Financial Supervision Commission (FSC). All transformations are subject to the preliminary consent of the FSC provided that the company:

- Proves solvency after the transformation;
- Protects the rights of the insured persons and pensioners.

The winding up of a pension insurance company is done by decision of the general meeting of the shareholders of the company (i.e. voluntary termination) or after the termination of its license by the FSC (i.e. enforced termination).

The FSC is the only entity entitled to initiate proceedings for bankruptcy of a pension insurance company. A rehabilitation plan may not be proposed during the insolvency proceedings of a pension insurance company.

Upon transformation or termination of a pension insurance company, the company that receives the accumulated capital in members' individual accounts must notify the members within 1 month following the transaction. Members may choose, within 1 month following the notification, between continuing to participate in the new pension fund and transferring their assets to another fund.

Bankruptcy: Insolvency Insurance / Compensation Fund

All funds: There are no legal requirements for pension insurance companies to buy insurance against low performance or insolvency and no guarantee or compensation fund exists. There are no state guarantees.

Disclosure of information / Individual action

All funds: Members must be informed of the fund operating rules and all amendments and supplements. Upon signing a membership contract, a member may request a certified copy of the operating rules of the pension insurance company.

By 31 May of each year, each pension insurance company must provide to members free of charge a statement of their individual accounts for the previous year in accordance with a sample form approved by the Financial Supervision Commission (FSC). On request, the pension insurance company must also provide additional information concerning the individual account, the amount of fees and the deductions from contributions and from the account balance. A fee may be charged for the provision of additional information if regulated in the contract between the individual and the pension insurance company.

Annual financial statements of the pension insurance company and of the mandatory universal fund and mandatory occupational pension fund managed by it, adopted by the general meeting, must be submitted to the FSC and published in the state gazette.

The member has the right to inform the managing and supervisory boards and the FSC about any violations in the activity of the pension insurance company.

Other measures

All funds: None.

Tax Treatment

Taxation of member contributions

All funds: Deducted from income prior to taxation.

Taxation of employer contributions

All funds: Tax-exempt as operating expenses.

Taxation of investment income

All funds: Tax-exempt.

Taxation of benefits

All funds: Tax-exempt.

Regulatory and Supervisory Authorities

Financial Supervision Commission: Responsible for the licensing and supervision of pension insurance companies and mandatory pension funds.

The Financial Supervision Commission (FSC) is a budget-supported legal entity with its headquarters in Sofia. The FSC is an independent institution and reports its activities to the National Assembly. The FSA has its own independent budget, which is adopted by the National Assembly as an independent part of the national Budget.

The FSC has the following powers concerning the mandatory pension funds:

- Issue, refuse or withdraw licenses for pension insurance companies and mandatory pension funds;
- Permit or refuse permission for a merger, take-over, spin-off, split or voluntary winding up of pension insurance companies or pension funds;
- Initiate bankruptcy proceedings against a pension insurance company;
- Issue written orders for the dismissal of one or more persons authorized to manage and represent the pension insurance company.

Financial Supervision Commission
33,Shar Planina Street
1303 Sofia
Bulgaria
Tel.: (+359 2) 940 49 99
Fax: (+359 2) 829 43 24
Internet: www.fsc.bg

Ministry of Labour and Social Policy: Develops the overall policy for old-age protection including mandatory private pension schemes.

Ministry of Labour and Social Policy
2, Triaditza Street
1051 Sofia
Bulgaria
Tel.: (+359 2) 811 94 43
Fax: (+359 2) 988 44 05; 986 13 18
Internet: www.mlsp.government.bg

National Revenue Agency: Collects social security contributions and transfers the part of the contributions allocated to the mandatory private pension schemes to the respective pension insurance companies.

National Revenue Agency
52, Dondukov Street
1303 Sofia
Bulgaria
Tel.: (+359 2) 985 91
Fax: (+359 2)987 08 27
Internet: www.nra.bg

Croatia

Exchange rate: USD 1.00
equals 6.19 kunas (HRK)

Regulatory Framework

2004: Act on Data Collection of insured persons for contribution payment for mandatory insurance.

2002: Act on Contribution for Social Insurance; regulates the contribution rates to the different old-age pension schemes.

1999: Act on Societies for Pension Insurance and Payment of Pensions on the Basis of Individual Capitalization; regulates the establishment and licensing of pension insurance companies and the calculation and payment of annuities.

1999: Act on Mandatory and Voluntary Pension Funds; regulates the establishment, licensing and operation of pension funds and pension fund management companies and creates an agency for their supervision.

1999: Decree on the Establishment of the Central Registry of Insured Persons (REGOS); regulates the establishment of the REGOS to collect contributions and control compliance.

1998: Pensions Act; outlines the structure of the Croatian old-age protection system consisting of the publicly managed social security scheme, the mandatory private pension scheme and voluntary personal savings plans.

Types of Schemes

All covered persons must become members of the mandatory private pension scheme through joining an open mandatory pension fund established by a pension fund management company (PFMC). The choice of a pension fund is an individual decision and does not depend on the employer. The individual choice of pension fund must be done through the Central Registry of Insured Persons (REGOS).

The mandatory private pension scheme is defined contribution with contributions accumulating in individual accounts. The REGOS manages central accounting of these accounts.

Additional voluntary contributions to mandatory private pension schemes are not possible, but additional savings can be made through membership in voluntary pension funds.

Institutional Framework

Mandatory personal scheme: Mandatory pension funds are created and managed by pension fund management companies (PFMCs) that must be licensed joint-stock or limited liability companies.

The single business aim of PFMCs must be the establishment and management of mandatory pension funds. A PFMC may only establish and manage one mandatory pension fund. The fund itself is not an independent legal entity but a vehicle for the investment of members' assets.

PFMCs may be established by Croatian or foreign natural and legal persons and must be licensed by the Croatian Financial Services Supervisory Agency (HANFA). The licensing process consists of two steps.

First, the founders must obtain authorization from the HANFA for the establishment of the PFMC and its registration with the Commercial Court. In order to obtain this authorization, the pension fund management company must have a minimum paid-in capital of HRK 40 million. For each additional 10,000 members over the membership of 100,000, the PFMC must increase its paid-in capital by a guarantee deposit of HRK 1 million. The guarantee deposit must be kept in a separate account in the custodian bank.

The following documents must be submitted to the HANFA:

- Articles of association of the PFMC;
- List of owners of each founder, with an explanation of their relationships;

- List of members of the management and supervisory board of each founder, with details on their qualifications and professional career;
- Audited financial statements of the founders for the 3 previous years;
- A five-year financial and business plan for the PFMC;
- The confirmation by an auditor that the prescribed minimum capital of the PFMC is paid-in in cash.

After obtaining authorization, the PFMC is established and registered with the Commercial Court.

Second, an authorized PFMC must obtain a license to operate a mandatory pension fund from the HANFA. In order to obtain this operating license, the PFMC must submit the pension fund statute and the contract with a custodian (see section Asset management) to the HANFA.

Mandatory pension funds must have at least 50,000 members within 2 years of their establishment.

PFMC must have a management and a supervisory board. Members of these boards must:

- Have a university degree;
- Have expert knowledge necessary for managing a PFMC and experience in managing companies of comparable size and type of business;
- Not have been sentenced for a crime related to business activities (e.g. causing a bankruptcy, violation of the obligation to keep business records, inflicting damage on creditors, fraud specified in the Penal Code etc.);
- Not have been sentenced for an offence or a crime under the Securities Act;
- In the case of members of the management board, not be a member of the management or supervisory board of another PFMC or of the custodian;
- In the case of members of the supervisory board, not be a member of any other supervisory board.

Members of the management board must hold a license issued by the HANFA based on their qualifications and professional career.

PFMCs are only responsible for the capital accumulation phase. Annuities (see section Benefit structure / formula) are paid by pension insurance companies that are specialized joint-stock or limited liability companies. Pension insurance companies must have the single business aim of providing annuities and comply with the minimum capital requirement of HRK 5 million in order to obtain a license from the HANFA.

The Central Registry of Insured Persons (REGOS) collects data and manages a register of calculated and paid mandatory contributions. It also administers a unique accounting system for personal accounts and transfer of contributions to individual accounts in the respective mandatory pension funds.

Coverage

Covered population

Mandatory personal scheme: Membership in a pension fund is mandatory for public- and private-sector employees and self-employed persons.

When the mandatory private pension scheme commenced on 1 January 2002 public- and private-sector employees under age 40 had to become members of a mandatory pension fund by 31 March 2002. Those between age 40 and 50 could choose to voluntarily become members by 30 June 2002. Persons aged 50 or older were prohibited from becoming members of mandatory pension funds.

Enforcement of affiliation

Mandatory personal scheme: Employees not complying with the obligation to choose a mandatory pension fund within 3 months of becoming covered are affiliated to a fund by the Central Registry of Insured Persons (REGOS).

Pension fund management companies (PFMCs) must accept any application by a covered person for membership of their mandatory pension fund.

Financing / Investment

Sources of funds

Member contributions

Mandatory personal scheme: Members contribute 5% of gross salary.

The minimum earnings for contribution purposes are the same as the publicly managed social security scheme (HRK 2,169.65 a month in 2006).

There are no maximum earnings for contribution purposes.

Self-employed persons contribute 5% of a contributory base determined by the tax administration. The contributory base is usually the minimum earnings considered for contributions purposes under the publicly managed social security scheme (HRK 2,169.65 a month in 2006). They may opt to contribute based on a higher contributory base up to the maximum contributory base is equal to HRK 37,194 a month in 2006.

The contribution rate is set annually in the Act on Contribution for Social Insurance.

Employer contributions

Mandatory personal scheme: Employers do not contribute.

Other sources of funds

Mandatory personal scheme: None.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

Asset Management

Mandatory personal scheme: Each pension fund management company (PFMC) may only establish and manage one mandatory pension fund and is responsible for the management of fund assets.

The assets of a mandatory pension fund must be invested according to the following limits:

- A minimum of 50% in long-term bonds and other long-term securities issued by the Republic of Croatia and by the Croatian National Bank;
- A maximum of 30% in long-term bonds and other long-term securities issued by local government authorities and municipalities;
- A maximum of 30% in long-term bonds and other long-term securities issued by joint-stock companies registered in the Republic of Croatia which are traded on the Zagreb Stock Exchange or other organized capital markets in the Republic of Croatia;
- A maximum of 30% in shares issued by joint stock companies registered in the Republic of Croatia, and in shares from domestic closed-end investment funds that are included officially as securities on a stock exchange registered in the Republic of Croatia;
- A maximum of 15% in short-term notes and other short-term securities issued by the Republic of Croatia and by the Croatian National Bank, as well as short-term bank deposits repurchase agreements;
- A maximum of 15% in assets outside the Republic of Croatia;
- A maximum of 15% in long-term bonds or other long-term securities issued by other countries which are traded on organized capital markets in OECD countries;
- A maximum of 15% in shares of domestic and foreign open-end investment funds, taking into account that those funds primarily invest in securities that are issued by the companies registered in the Republic of Croatia or some other OECD country;
- A maximum of 10% in long-term bonds or other long-term securities issued by foreign nonstate entities which are traded on organized capital markets in OECD countries;
- A maximum of 10% in stocks issued by foreign joint-stock companies and the shares of foreign closed-end investment funds which are traded on organized capital markets in OECD countries;
- A maximum may be held in cash and bank deposits;
- A maximum of 5% of pension fund assets may be invested in securities of a single issuer or in

securities of two or more issuers which are related, except for public bonds;

PFMCs can keep pension fund assets in cash, up to 5% of total assets.

Time contracts can be used only for the purposes of protecting assets and liabilities of a fund, by which a maximum of 30% of the fund's assets can be protected.

Pension fund assets shall not be invested in:

- Stocks, bonds and other securities which are either unlisted on the stock exchange or not publicly traded on organized markets, except the shares in open-end investment funds;
- Physical assets which are not traded on organized markets and the value of which is uncertain, including, for example, antiques, works of art and motor vehicles;
- Real estate;
- Stocks, bonds and other securities issued by any stockholder of a pension company, the custodian bank of a pension fund or anybody that is related in any other way.

PFMCs may delegate the asset management of a pension fund located out of the Republic of Croatia to one or more asset managers who are, under the regulations of the state in which the assets are located, authorized to manage someone else's securities on the basis of an approval and to whom the Croatian Financial Services Supervisory Agency (HANFA) has granted a license for performing such activities.

PFMCs must credit a minimum rate of return to the individual accounts. The minimum rate of return is a reference rate of return determined annually by the HANFA.

Fund assets must be kept by a custodian.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Covered persons are free to choose any mandatory pension fund for membership.

Members may change the mandatory pension fund anytime and the former pension fund management company (PFMC) must transfer the accumulated capital including all investment returns to the new fund, which must accept the transfer-in.

PFMCs may charge an exit fee to members who leave the fund before completing 3 years of membership. In case of changing the fund in the first year of membership, PFMCs may charge an exit fee of 0.8% of the capital accumulated in the individual account, reducing to 0.4% in the second year and 0.2% in the third year. No exit fee is charged after 3 years of membership.

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: Eligibility for benefits depends on eligibility for an old-age pension under the publicly managed social security scheme. Accordingly, age 64 (men) and age 59 (women) with 16 years of insurance coverage, or age 59 with 40 years of coverage (men) and age 54 with 35 years of insurance coverage (women).

Beginning in 2008, the minimum qualifying conditions will be age 65 (men) and age 60 (women) with 15 years of insurance coverage.

Withdrawal of funds before retirement

Mandatory personal scheme: Not permitted.

Benefit structure / formula

Mandatory personal scheme: Defined contribution.

At retirement, the accumulated capital in the individual account must be used to buy a life annuity from an authorized pension insurance company chosen by the member. The annuity must be calculated based on unisex mortality tables.

Benefit adjustment

Mandatory personal scheme: Annuities must be indexed to prices.

Survivors

Benefit qualifying conditions

Mandatory personal scheme: Eligibility for survivor pensions is regulated under the publicly managed social security scheme. Accordingly, the deceased was a pensioner, an occupational rehabilitation beneficiary, or had completed 5 years of insurance coverage or a 10-year qualifying period or met the qualifying period conditions for a disability pension. There is no minimum qualifying period if the death resulted from a work injury or an occupational disease.

Eligible survivors are a widow(er) aged 50 or older, caring for eligible children, or disabled (a woman who is widowed at age 45 becomes eligible on reaching age 50); and children up to age 15 (age 18 if unemployed, age 26 if a student, no limit if disabled).

Survivor pension ceases on remarriage unless the widow(er) is age 50 or older.

Benefit structure

Mandatory personal scheme: In case the fund member dies before retirement, the accumulated capital in the individual account is either:

- Transferred to the Croatian Pension Insurance Institute (which administers the publicly managed social security pension scheme) to increase the survivor benefits paid under the publicly managed social security pension scheme. The increase does not depend on the amount of assets transferred; or
- If a family annuity purchased by means of the accumulated capital plus regular survivor benefits (i.e. not increased) from the publicly managed social security scheme would exceed the benefits payable under the option above, an annuity must be purchased from a pension insurance company of the survivors' choice.

If married at the time of retirement, the retiree must opt for a joint survivor annuity (except where spouses have accumulated their own rights under a mandatory private pension scheme) that provides 50% of the annuity to the spouse after the retiree dies.

If there are no eligible survivors, the capital accumulated in the individual account is inherited according to general inheritance law.

Disability

Benefit qualifying conditions

Mandatory personal scheme: Eligibility for disability benefits is regulated under the publicly managed social security scheme. Accordingly, a general disability pension is paid under permanent loss of the ability to work resulting from permanent changes in health occurring before age 65 (men and women). The insured must have insurance coverage during at least 1/3 of the working life after age 20 (age 23 for insured persons with post-secondary education; age 26 for insured persons with a university degree). There is no minimum qualifying period if the general disability is the result of a work injury or an occupational disease.

Additionally, occupational disability pensions, occupational rehabilitation and salary compensations, and compensation allowances for a physical injury may be paid.

Medical experts of the Croatian Pension Insurance Institute and senior medical experts assess the degree of disability. The assessment is subject to review by a special medical committee composed of 12 appointed members of the Croatian Pension Insurance Institute.

Benefit structure

Mandatory personal scheme: If a fund member is disabled before retirement, the accumulated capital in the individual account is either:

- Transferred to the Croatian Pension Insurance Institute to increase the disability benefits paid under the publicly managed social security pension scheme. The increase does not depend on the amount of assets transferred; or
- If a life annuity purchased by means of the accumulated capital plus a regular disability pension (i.e. not increased) from the publicly managed social security scheme would exceed the benefit payable under the option above, an annuity must be purchased from a pension insurance company of the disabled member's choice.

Protection of Rights

Protection of Assets

Mandatory personal scheme: The assets of the pension fund must be held separately from the assets of the pension fund management company (PFMC).

Pension fund assets are legally excluded from insolvency and/or bankruptcy procedures related to employers, PFMCs and custodians.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: Pension fund management companies (PFMCs) must submit to the Croatian Financial Services Supervisory Agency (HANFA):

- Daily reports on the unit value of the fund and on the portfolio structure;
- A quarterly report on the rate of return;
- The yearly information prospectus (see subsection Disclosure of information / individual action);
- A yearly performance report;
- Yearly information on fees charged to members and the remuneration paid to members of the management and supervisory boards of the PFMC.

Quarterly and annual financial statements for the PFMC must be published and submitted to the HANFA. All financial statements must be prepared in accordance with International Accounting Standards. Annual financial statements must be audited by an independent accounting firm and signed by a certified public accountant.

PFMCs must credit a minimum rate of return to the individual accounts. The minimum rate of return is a reference rate of return determined annually by the HANFA. If the actual rate of return of the fund is lower than the minimum rate, the shortfall must be covered by the guarantee fund (see section Institutional framework). If the assets of the guarantee fund are insufficient, up to 20% of the PFMC's own capital must be used. If both sources are insufficient to compensate for the low rate of return, the State guarantees the remainder.

Whistleblowing

Mandatory personal scheme: The custodian must notify the Croatian Financial Services Supervisory Agency (HANFA) about any violation of legal requirements by the pension fund management company (PFMC) that it becomes aware of.

Standards for service providers

Mandatory personal scheme: Custodians must be banks and must not be related to the pension fund management company (PFMC) or its owners. The choice of custodian must be approved by the Croatian Financial Services Supervisory Agency (HANFA).

Auditors must be independent accounting firms.

Public accountants appointed to sign annual financial statements must be certified.

Fees

Mandatory personal scheme: Pension fund management companies (PFMCs) may charge the following fees annually for the management of the mandatory pension fund:

- A maximum of 0.8% of contributions paid;
- A maximum of 1.2% of the assets of the pension fund.

PFMCs may charge an exit fee to members who leave the fund before completing 3 years of membership. In case of changing the fund in the first year of membership, PFMCs may charge an exit fee of 0.8% of the capital accumulated in the individual account, reducing to 0.4% in the second year and 0.2% in the third year. No exit fee is charged after 3 years of membership.

A maximum annual fee of 0.1% of assets may be charged by the custodian.

Winding up / Merger and acquisition

Mandatory personal scheme: If a pension fund management company (PFMC) is wound up, the Croatian Financial Services Supervisory Agency (HANFA) temporarily takes over the management of the fund and invites all other PFMCs

to tender their bids for the management of the fund. If no bid is received within 15 days, the assets of the fund managed by the management company that is wound up are transferred free of charge to the remaining mandatory pension funds (divided proportionally to the number of members in each fund).

In the case of merger or acquisition of PFMCs, the respective mandatory pension funds must be merged. Members can change the fund free of charge within 1 year of the merger or acquisition.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: If the guarantee fund (see Institutional framework) and the pension fund management company's (PFMC) own capital are insufficient to compensate for rate of return shortfalls, the State covers any remaining deficit.

The State fully guarantees the payment of annuities in cases of bankruptcy of pension insurance companies.

Disclosure of information / Individual action

Mandatory personal scheme: Pension fund management companies (PFMCs) must provide members with information at least once a year about the accumulated capital in their individual accounts.

PFMCs must publish annually an information prospectus containing information on the investment strategy, members of the management and supervisory board and the amount of capital of the company. The information prospectus is provided to members upon request.

Members can bring civil action against PFMCs and custodians that fail in their duties.

Other measures

Mandatory personal scheme: None.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Tax-exempt.

Taxation of employer contributions

Mandatory personal scheme: Employers do not contribute.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Taxed.

Regulatory and Supervisory Authorities

Croatian Financial Services Supervisory Agency (HANFA): Supervises the operation of pension fund management and pension insurance companies. The HANFA is an independent government agency financed by the government budget.

If irregularities in the business operation of supervised entities are detected, the HANFA must order the correction of such irregularities. The supervised entity must submit a report to the HANFA on the measures taken.

The HANFA may withdraw the operating license from a pension fund management company (PFMC) if:

- It is not satisfied with the measures taken to correct an irregularity;
- The company no longer fulfils the conditions of the operating license;
- If the number of members of the fund is below 50,000 for more than 6 months.

The HANFA may review any business records and documentation of supervised entities related to their business operations.

The HANFA supervises the Central Registry of Insured Persons (REGOS).

Hrvatska Agencija za nadzor financijskih usluga
Miramarska 24b
10000 Zagreb
Croatia
Tel.: (+385) 1 617 32 00
Fax: (+385) 1 481 14 06
Internet: www.hanfa.hr

Central Registry of Insured Persons (REGOS):
Public institution supervised by the HANFA whose main activities are:

- Receiving applications of new members or members who apply to change their mandatory pension funds;
- Allocating insured persons who fail to join a mandatory pension fund in the given time;
- Collecting data and managing the Register on calculated and paid contributions to the mandatory pension scheme;
- Managing a unique accounting system for personal accounts of mandatory pension funds' members;
- To provide services to pension fund management companies (PFMCs), the Croatian Pension Insurance Institute, pension insurance companies, insured persons etc. using its database.

Sredisnji registar osiguranika
Gajeva 5
10000 Zagreb
Croatia
Tel.: (+385) 1 489 89 00
Fax: (+385) 1 489 89 03
Internet: www.regos.hr

Estonia

Exchange rate: USD 1.00
equals 13.25 kroons (EEK)

Regulatory Framework

2004: Funded Pensions Act; regulates coverage, contributions and benefits.

2004: Investment Funds Act; regulates the activities of pension fund management companies and pension funds (establishment, investment restrictions, reporting, supervision, etc).

2002: Guarantee Fund Act; provides for the establishment of the Guarantee Fund to compensate, among other consumers of financial services, members of mandatory pension funds for any losses due to violations of legal requirements, fraud or mismanagement that cannot be covered by the reserves or assets of the pension management company.

2000: Estonian Central Register of Securities Act; defines the tasks of the Registrar of the Estonian Register of Securities and regulates the procedure for the registration of pension fund units in individual pension accounts.

Types of Schemes

All covered persons must choose a mandatory pension fund the assets of which are managed and invested collectively by a pension management company.

Assets are accumulated according to the defined contribution principle and must at retirement be used to purchase a life annuity.

Voluntary contributions to mandatory pension funds are not allowed. Members may, however, contribute to a voluntary supplementary pension fund usually established by the same pension management company that manages the mandatory pension fund.

The pension system in Estonia consists of three pillars:

- The 1st pillar: the state social insurance pension;
- The 2nd pillar: the mandatory funded pension;
- The 3rd pillar: the voluntary supplementary funded pension.

Information on the state pension and the supplementary funded pension is not provided in the following sections.

Institutional Framework

Mandatory pension funds: All covered persons must communicate their choice of pension fund to the Registrar of the Estonian Central Register of Securities, which opens and maintains individual pension accounts for each person. Contributions are collected by the Tax Board and transferred to the Registrar who purchases units of the pension fund chosen by the covered persons and registers the units on the individual pension accounts. The unit-holders (hereafter referred to as members) of a pension fund own the assets of the fund that are pooled and invested collectively by the respective pension management companies.

Pension management companies must be limited companies with headquarters in Estonia and a minimum share capital of the equivalent to EUR 3 million.

In order to establish and manage mandatory pension funds, a pension management company must apply to the Financial Supervisory Authority (FSA) for an operating license. An operating license for the management of mandatory pension funds also authorizes the management of voluntary pension funds, other investment funds and the provision of securities portfolio management services.

A pension management company may establish two or more mandatory pension funds provided that the investment policies of the funds differ significantly. At least one fund must be invested conservatively (see section Asset management).

The following documents and information must,

among others, be attached to the application for an operating license:

- The articles of association of the management company (see below);
- Information on the shareholders of the management company and in particular on persons who own qualifying holdings (legally defined as 10% of share capital or number of votes, or having significant influence on decisions);
- Information on the members of the management and supervisory board of the pension management company (e.g. education or professional experience);
- Information on the fund manager, the compliance officer and the auditor;
- A business plan (see below);
- The internal rules (see section Protection of rights, Financial and technical requirements / reporting).

The articles of association of a pension management company must define the powers of the management and the supervisory board and must, among other issues, regulate:

- The establishment of pension funds and other investment funds;
- The establishment of, and changes to, the pension fund rules;
- The conclusion of, and changes to, the contract with a custodian;
- The appointment of fund managers.

Amendments to the articles of association are subject to the approval of the FSA which must only be granted where they are not detrimental to the interests of members.

The business plan must be for a period of 5 years and contain, among other information, descriptions of and/or forecasts of:

- The market value and net asset value and the rate of return on the assets of the pension funds;
- The investment policy and structure of the pension funds;
- The management fees of the pension funds.

A company already operating as an investment fund management company must also submit the most recent yearly and half-yearly reports of the investment funds managed and an activity report that must include information on:

- The structure, value and fees of the investment funds managed by the management company;
- The management structure and technical capacities of the management company.

Pension management companies must establish pension fund rules regulating, among other issues, the purchase and redemption of units and the procedure for gradual withdrawals from the fund, and must apply to the FSA for their approval and registration. Amendments to the pension fund rules are subject to the approval of the FSA which must only be granted where they are not detrimental to the interests of members.

Managers of pension management companies must comply with certain qualification requirements (e.g. academic education) and must have a sound reputation. Persons who have been responsible for the bankruptcy of a company or have otherwise shown their incapacity to manage a company may not be managers of pension management companies.

Upon appointment, managers of pension management companies must submit evidence of their education and professional experience to the FSA, which may refuse to approve the appointment.

Life insurance companies with a share capital of the equivalent to EUR 3 million or more that have been licensed by the FSA to operate in the area of mandatory funded pensions provide benefits to retirees (see section Retirement benefits, Benefit structure / formula).

Coverage

Covered population

Mandatory pension funds: All persons born on or after 1 January 1983 who are new entrants to the labour market.

Persons born on or after 1 January 1942 and before 1 January 1983 may contribute to a mandatory pension fund on a voluntary basis. The voluntary affiliation

must be done no later than:

- 31 October 2006 for persons born from 1968 to 1970;
- 31 October 2007 for persons born from 1971 to 1973;
- 31 October 2008 for persons born from 1974 to 1976;
- 31 October 2009 for persons born from 1977 to 1979;
- 31 October 2010 for persons born from 1980 to 1982.

Persons born on or after 1 January 1942 and before 1 January 1969 who did not opt to contribute to a mandatory pension fund on a voluntary basis by 31 October 2005 cannot be members of a mandatory pension fund.

Persons born before 1 January 1942 are not allowed to contribute to a mandatory pension fund.

Self-employed persons are liable to pay social tax on the income from self-employment and are therefore required to choose a mandatory pension fund.

In order to become a member of a mandatory pension fund, a person must submit an application. The right to submit an application arises when the person attains age 18. A person of at least age 16 may also submit an application with the written consent of their legal representative.

Enforcement of affiliation

Mandatory pension funds: If a person who should be covered does not choose a mandatory pension fund, the Registrar of the Estonian Central Register of Securities determines the pension fund for that person by choosing a fund investing in fixed income investment instruments (a conservative fund - see section Asset management). There are currently six conservative funds and persons are allocated to the six funds according to a fixed order (a person is allocated to the first fund, the next person to the second fund etc.).

Pension management companies must not refuse any applications for membership from eligible persons.

Financing / Investment

Sources of funds

Member contributions

Mandatory pension funds: Employees contribute 2% of salary.

Employer contributions

Mandatory pension funds: Employers contribute 4% of salary (part of an overall 33% social tax paid by the employer for social security benefits).

Self-employed persons contribute 4% of declared income (part of an overall 33% social tax paid for social security benefits).

The minimum earnings for contribution purposes is EUR 90 a month in June 2006.

Other sources of funds

Mandatory pension funds: None.

Methods of Financing

Mandatory pension funds: Funded in individual accounts.

Asset Management

Mandatory pension funds: Pension management companies must employ fund managers for the management of pension fund assets who must:

- Have appropriate professional experience and a sound reputation as fund managers;
- Have worked as a fund manager for at least 1 year or have participated in portfolio management services for at least 3 of the last 5 years;
- Hold a certificate issued by the Minister of Finance based on a qualifying examination.

The appointment of a fund manager is subject to the approval of the Financial Supervisory Authority (FSA).

Fund managers must manage the fund assets with prudence and care in the interests of members.

Of total assets of a pension fund invested:

- A maximum of 50% may be in equity or investment funds invested in equity;
- A maximum of 5% may be in securities issued by companies of the same group;
- A maximum of 5% may be in one investment fund;
- A maximum of 5% may be in the investment funds of the pension management company;
- A maximum of 30% may be in the investment funds of companies belonging to the same group as the pension management company;
- A maximum of 35% may be in securities issued and guaranteed by the Republic of Estonia, a member state of the European Union or another state issuing securities with equal or lower risk;
- A maximum of 35% may be in deposits of credit institutions registered in Estonia or another state specified in the pension fund rules;
- A maximum of 5% may be in deposits of a single credit institution or credit institutions belonging to the same group;
- A maximum of 10% may be in fixed assets located in countries specified in the pension fund rules.

The investment income from the investment of the fund assets is owned by all members and shared among them according to their share of fund units.

Pension management companies may establish and manage several mandatory pension funds. However, every company must offer at least one conservative fund, the assets of which are only invested in fixed income instruments (bonds and deposits). Pension management companies usually offer two or three funds that invest 0% (conservative fund), 25% and up to 50% respectively of total assets in equities.

Pension management companies must not promise any guaranteed rate of return or projected rate of return.

Pension management companies must appoint a custodian to hold the fund assets.

Benefit provisions

Preservation, portability, transferability

Mandatory pension funds: Members may change mandatory pension funds once a year if they own at least 500 units in their pension fund (the limit of 500 units does not apply to persons affiliated to a fund by the Registrar of the Estonian Central Register of Securities - see section Enforcement of affiliation). The redemption of units in the former pension fund and purchase of units in the new pension fund takes place on 1 January of the year after that in which the application for the change was submitted to the Registrar of the Estonian Central Register of Securities.

Unit redemption and issue fees may be charged by pension management companies. The fees must be specified in the pension fund rules that are subject to the approval of the Financial Supervisory Authority. The redemption fee must not exceed 1% of the net asset value of a unit, and until 1 January 2007 the issue fee must not exceed 3% of the net asset value of a unit.

Retirement Benefits

Benefit qualifying conditions

Mandatory pension funds: Benefits are paid at age 63 for men and age 59 and 6 months for women (i.e. the retirement age under the publicly administered social security scheme). Retirement age for women born in 1953 and later is being increased by 6 months each year to equal the men's retirement age of 63 in 2013.

The first contribution to a mandatory private pension fund must be paid at least 5 years before retirement.

Withdrawal of funds before retirement

Mandatory pension funds: Not permitted.

Benefit structure / formula

Mandatory pension funds: Defined contribution.

At retirement, members must use the total redemption value of their mandatory pension fund units to purchase a life annuity from a life insurance company of their choice.

The purchase of an annuity is not required if the annuity would be lower than 25% of the national

pension rate which is the minimum guaranteed old-age pension under the state social insurance scheme (EUR 82 a month in April 2006). In this case, the member may make gradual withdrawals from the mandatory pension fund of up to 25% of the national pension rate. The calculation of the gradual withdrawals must be based on methods approved by the Financial Supervisory Authority (FSA).

If a monthly life annuity would be higher than EUR 246 (i.e. three times the national pension rate), a member may make gradual withdrawals from the mandatory pension fund of funds exceeding the amount required to purchase a monthly annuity equal to three times the national pension rate.

Payments from mandatory pension funds start from 2009.

Benefit adjustment

Mandatory pension funds: No legal rules.

Survivors

Benefit qualifying conditions

Mandatory pension funds: Survivors designated by the deceased member are eligible for survivor benefits.

If the deceased member had not designated eligible survivors, the pension fund units belonging to the deceased member are inherited according to general inheritance law (spouse and children are primary beneficiaries).

Life annuity payments usually cease when a retiree dies. The annuity contract may, however, provide for a guaranteed period during which the designated survivor receives the annuity after the policyholder dies.

Benefit structure

Mandatory pension funds: Upon death of a member receiving gradual withdrawals (see section Retirement benefits, Benefit structure / formula), units of a pension fund are inherited by the designated person. The designated person may then redeem all units at one time or transfer the redeemed value into his individual account.

Upon death of a member receiving life annuities from and insurance company, payments made on the basis of the contract must be terminated. A guaranteed period may be prescribed in the contract during which the insurance company must make payments to a person designated by the policyholder.

Disability

Benefit qualifying conditions

Mandatory pension funds: The system of mandatory private pension funds does not provide disability benefits.

Benefit structure

Mandatory pension funds: The system of mandatory private pension funds does not provide disability benefits.

Protection of Rights

Protection of Assets

Mandatory pension funds: The assets of a mandatory pension fund must be kept completely separate from the pension management company's assets and from the assets of other funds under its management.

Fund assets must be kept by a custodian.

The units registered on a member's individual pension account cannot be claimed by creditors in the case of personal bankruptcy of the member.

Financial and Technical Requirements / Reporting

Mandatory pension funds: Each pension management company must, by means of its own funds, establish a reserve of up to 2% of the value of the assets of the pension funds under management. The reserve must be used to compensate members for loss of pension fund assets due to violations of legal investment restrictions, other legal requirements or the pension fund rules, or to fraud and mismanagement. If

the reserve is not sufficient to compensate members, the pension management company must make up the difference from its own funds. If the funds of the pension management company are not sufficient, members are compensated by the Guarantee Fund (see section Protection of rights, Bankruptcy: insolvency insurance / compensation fund).

Pension management companies must define internal rules governing the actions and responsibilities of managers and employees and carry out internal audits in order to ensure compliance with legal requirements.

A compliance officer must be appointed in order to carry out internal audits and ensure compliance with legal requirements. Compliance officers must be given sufficient means of action and access to information in order to adequately carry out their tasks.

Pension management companies must submit, separately for each pension fund managed, yearly and half-yearly reports to the Financial Supervisory Authority (FSA). Moreover, the FSA may request additional reports on general or specific issues at any time.

The yearly reports must contain the following documents and information with respect to the fund:

- The balance sheet;
- The investment statement;
- A statement on investment asset changes;
- An income and expenditure statement;
- An activity report;
- A statement comparing the net asset value of the fund and the net asset value per unit during the preceding 3 years.

Half-yearly reports need only consist of the first four of these documents.

Every pension management company must appoint an auditor to audit the yearly reports.

Whistleblowing

Mandatory pension funds: Compliance officers must inform the Financial Supervisory Authority (FSA) immediately if they detect violations of legal requirements or events that may be detrimental to the interests of members.

Custodians must inform the FSA immediately if they detect violations of legal requirements or the fund rules.

Auditors of pension management companies must inform the FSA immediately if the audit reveals violations of legal requirements, a risk that the pension management company cannot fulfil its obligations or events that may be detrimental to the interests of members.

Standards for service providers

Mandatory pension funds: Custodians of mandatory pension fund assets must:

- Be credit institutions licensed by the Bank of Estonia or the Financial Supervisory Authority (FSA) on the basis of the Credit Institutions Act;
- Have sufficient organizational, financial and technical capacities to fulfil their tasks;
- Have been custodians of contractual investment funds for at least 1 year of the last 3 years.

The auditor of a pension management company must neither be a member of the management board of that company nor own units of the funds managed by the company. In addition, auditors must:

- Hold at least a bachelor degree;
- Have a sound reputation;
- Hold a certificate issued by the Minister of Finance based on a qualifying examination;
- Have appropriate knowledge and experience;
- Have worked as an assistant of an auditor for a period of at least 3 years.

Fees

Mandatory pension funds: The issue and redemption fees of pension fund units must be specified in the pension fund rules that are subject to the approval of the Financial Supervisory Authority (FSA). The redemption fee must not exceed 1% of the net asset value of a unit and until 1 January 2007 the issue fee must not exceed 3% of the net asset value of a unit.

The management fee of a pension fund must be a proportion of the market value of the fund assets and must be defined in the pension fund rules. The fee must not exceed a limit set by the Ministry of Finance. This limit may vary with the market value of a fund and/or the structure of its investment portfolio.

Winding up / Merger and acquisition

Mandatory pension funds: The operating license of a pension management company to establish and manage mandatory pension funds may be revoked voluntarily by the pension management company or by an order of the Financial Supervisory Authority (FSA). The FSA may issue such an order if the pension management company has:

- Violated legal requirements, the pension fund rules or the interests of members;
- Submitted wrong information or manipulated documents;
- Not complied with an order of the FSA.

The pension funds established and managed by the pension management companies are liquidated when the operating license has been revoked.

Voluntary liquidation of a pension fund is subject to approval by the FSA which must only be granted if the management of the pension fund cannot be transferred to another pension management company.

Upon liquidation of a mandatory pension fund, its members must redeem their units and buy units of another pension fund. The FSA chooses a pension fund on behalf of members who do not execute a choice.

Mergers or divisions of pension management companies are subject to approval by the FSA, which is only granted if the legitimate interests of members are protected.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory pension funds: Pension fund assets are not part of the assets of a pension management company and in the case of the latter's bankruptcy creditors cannot claim against these assets.

If the reserve that must be established by each management company to compensate members for losses due to specific reasons (see section Protection of rights, Financial and technical requirements / reporting) is not sufficient and the shortfall cannot be made up by the funds of the pension management company, members are compensated by the Guarantee Fund.

The Guarantee Fund is a statutory body that operates three funds to compensate clients of deposit institutions, clients of investment institutions and members of mandatory pension funds respectively. The fund to protect the rights of members of mandatory pension funds is financed by mandatory contributions paid by pension management companies in respect of each of the mandatory pension funds they manage. The total contribution for each fund consists of a single contribution of EUR 964 payable upon establishment of the pension fund and quarterly contributions not exceeding 0.1% of the net asset value of each mandatory pension fund. When the value of the fund exceeds EUR 1 million, the quarterly contribution must not exceed 0.025% of the net asset value of the pension fund.

The Guarantee Fund compensates members of pension funds in full for losses up to EUR 10,000 and covers 90% of any losses exceeding EUR 10,000. Should the assets in the Guarantee Fund not be sufficient to compensate all members, the Fund may take loans from credit institutions or other persons or, whenever possible, compensate members with assets of the other two sectoral funds (see above). The fund may also apply for a state loan or a state guarantee for a loan taken.

Disclosure of information / Individual action

Mandatory pension funds: The pension management company must issue a prospectus for each pension fund under management containing information on the fund, the investment policy and the regulations governing the issue and redemption of units.

Members must, on request, be provided with the yearly and half-yearly reports of the pension fund of which they hold units.

Members may request pension account statements from the Registrar of the Estonian Central Register of Securities at least once a year.

Members may complain to the Financial Supervisory Authority or the Consumers Protection Agency concerning actions of pension management companies.

Other measures

Mandatory pension funds: None.

Tax Treatment

Taxation of member contributions

Mandatory pension funds: Tax-deductible.

Taxation of employer contributions

Mandatory pension funds: Tax-deductible.

Taxation of investment income

Mandatory pension funds: Tax-exempt.

Taxation of benefits

Mandatory pension funds: The total benefit from the publicly managed social security scheme and the system of mandatory pension funds is tax-exempt up to EUR 321 a month.

The amount exceeding EUR 321 is taxed as income at the normal income tax rate of 23% (reducing to 20% by 2009).

Regulatory and Supervisory Authorities

Financial Supervisory Authority: Is an integrated supervisory authority that supervises financial service providers including pension management companies and life insurance companies. The Financial Supervisory Authority (FSA) is financed by the state budget and is itself under the supervision of the Ministry of Finance.

The FSA may revoke the operating license for establishing and managing mandatory pension funds if the respective pension management company violates legal requirements, the pension fund rules or the interests of members, if the company has submitted wrong information or manipulated documents, or if it does not comply with an order of the FSA. It may also request the replacement of a manager of a pension management company, a fund manager of a pension fund or a custodian. The FSA is authorized to issue orders to pension management companies and to carry out on-site inspections.

Finantsinspektioon
Sakala 4
15030 Tallinn
Estonia
Tel.: (+372) 6 680 500
Fax: (+372) 6 680 501
Internet: www.fi.ee

Registrar of the Estonian Central Register of Securities: Opens pension accounts for members of the system of mandatory pension funds on which the pension fund units bought by means of contributions are registered. The Registrar also maintains an account in the Bank of Estonia to which all contributions collected by the Tax Board are transferred and are then used to purchase units of the respective pension funds.

A Registrar's fee, the upper limit of which is fixed by the Ministry of Finance, is charged on all mandatory pension funds and is equal to a percentage of the asset value of the funds.

The Estonian Central Securities Depositary (ECSD), which is a private limited liability company, is appointed by the Ministry of Finance as Registrar of the Estonian Central Register of Securities.

The ECSD is supervised by the Ministry of Finance and the FSA to ensure that it carries out its functions in compliance with legal requirements. The supervisory authority may carry out on-site inspections of the ECSD.

The ECSD must immediately notify the supervisory authority of any event or circumstance that materially affects its activities or financial situation. It must compensate for any damage caused by noncompliance with its obligations and must insure against liabilities arising from such actions with an insurance company. The conditions of this insurance contract must be approved by the Minister of Finance.

If claims for damages cannot fully be compensated by the ECSD and are not fully covered through the insurance contract, the state is liable to compensate for the damages. It may have recourse to the ECSD to recover any monies paid.

Eesti väärtpaberite keskregistri
Tartu mnt 2
10145 Tallinn
Estonia

Tel.: (+372) 640 8840
Fax: (+372) 640 8801
Internet: https://www.e-register.ee

Finland

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

1997: Pension Insurance Companies Act No. 354; regulates the establishment and operation of insurance schemes.

1995: Pension Foundations Act No. 1774; regulates the establishment and operation of company pension schemes.

1992: Insurance Funds Act No. 1164; regulates the establishment and operation of industry-wide pension schemes.

1985: Freelance Employees' Pensions Act (TaEL) No. 662; introduces mandatory insurance for certain groups of persons, e.g. musicians, artists or actors and employees whose employment lasts for less than one month and who are paid below a certain income limit; regulates benefit provisions.

1969: Self-Employed Persons' Pensions Act (YEL) No. 486; introduces mandatory insurance for the self-employed and regulates benefit provisions.

1969: Farmers' Pensions Act (MYEL) No. 467; introduces mandatory insurance for farmers and regulates benefit provisions.

1962: Temporary Employees' Pensions Act (LEL) No. 134; introduces mandatory insurance for temporary employees in certain industries and regulates benefit provisions.

1961: Employees' Pensions Act (TEL) No. 395; introduces mandatory insurance for employees and regulates benefit provisions.

1956: Seamen's Pensions Act (MEL) No. 72; introduces mandatory insurance for seamen and regulates benefit provisions.

Information in the following sections is based on the Employees' Pensions Act (TEL) as applicable on 1 January 2006. Although provisions may slightly differ from Act to Act, they are for the most part similar to those in the TEL. It is indicated if they differ substantially.

Note: On 14 March 2006, the Parliament approved the new Employees Pensions Act (TyEL). The new Act will take effect from 1 January 2007 and it will unify for private-sector employees the Employees' Pensions Act (TEL), the Temporary Employees' Pensions Act (LEL) and the Freelance Employees' Pensions Act (TaEL).

Types of Schemes

The mandatory earnings-related occupational pension system supplements the public universal (residence-based and income-tested) old-age pension, which is intended to guarantee a minimum income for all pensioners. The public universal old-age pension is proportional to the earnings-related pension. People who receive no earnings-related pension at all, or a very small earnings-related pension, receive the full amount of public universal old-age pension.

Under Employees' Pensions Act (TEL) employers must establish, and affiliate their employees to, mandatory earnings-related occupational pension schemes that can be implemented and administered through:

- Contracts with pension insurance companies (insurance schemes);
- Establishment of company pension schemes; or
- Establishment of industry-wide pension schemes.

If covering less than 300 employees, schemes must be implemented through contracts with pension insurance companies (i.e. insurance schemes).

Schemes for self-employed persons under the Self-Employed Persons' Pensions Act (YEL) must be implemented through insurance or industry-wide pension schemes.

Special institutions have been established by law to implement schemes under the Temporary Employees' Pensions Act (LEL), the Seamen's Pensions Act

(MEL), the Farmers' Pensions Act (MYEL) and the Freelance Employees' Pensions Act (TaEL) (see section Regulatory Framework). Information on these institutions is provided in the following sections where relevant.

Voluntary additional contributions are not possible.

Institutional Framework

All schemes: All pension schemes (i.e. insurance schemes and company and industry-wide pension fund schemes) must be independent legal entities established separately from the sponsoring employer.

Pension schemes must have a board of directors on which members must be represented and that:

- Ensures the administration is carried out properly;
- Monitors the pension scheme's accounting and financial assets;
- Establishes an asset management strategy;
- Appoints a managing director who is responsible for managing the scheme's day-to-day administration;
- Appoints an actuary to carry out insurance-related technical calculations and actuarial analyses.

A part of the pension liability must be financed through funding and the remainder is financed on a pay-as-you-go basis (see section Methods of financing). The pay-as-you-go component of the contribution is paid into a pooling mechanism managed by the Finnish Centre for Pensions (FCP). The pension institution with which members are insured at retirement pays the full pension and is compensated by the FCP for the costs of the unfunded part of the benefit.

Insurance schemes: Insurance schemes are implemented through contracts with specialized pension insurance companies.

Pension insurance companies may be founded by one or more individuals or legal entities provided that a license from the Ministry of Social Affairs and Health has been obtained. Founders of pension insurance companies must not be legally incompetent, bankrupt or persons who have been prohibited from undertaking business activities.

Pension insurance companies must have a minimum capital of EUR 5 million.

The managing director and members of the board of directors of a pension insurance company must:

- Be of good reputation;
- Have good knowledge of the pension insurance business and of asset management;
- Not be legally incompetent, bankrupt or persons who have been prohibited from undertaking business activities.

In addition, managing directors must not have any relationship with other institutions which may influence their independent decision-making.

Company pension schemes: Company pension schemes are implemented through the establishment of company pension funds that are independent legal entities founded by:

- A single employer;
- Several individual employers (joint company pension funds);
- A group of Finnish employers as defined in the Companies Act (consolidated corporation);
- A cooperative;
- A limited or general partnership or other corporations that share a financial or operational link.

The Insurance Supervision Authority (ISA) determines the required minimum capital on a case-by-case basis.

The founders, managing director and the members of the board of directors of a company pension scheme must not be legally incompetent or bankrupt.

Industry-wide pension schemes: Industry-wide pension schemes are implemented through the establishment of industry-wide pension funds that are independent legal entities founded by:

- A group of employers as defined in the Companies Act (consolidated corporation);
- A cooperative;
- A limited or general partnership or other corporations that share a financial or operational link.

While there are no explicit capital requirements for industry wide pension funds, the ISA may require some initial capital, the amount of which depends on the extent and the nature of the industry-wide pension fund's future operations.

The founders, managing director and the members of the board of directors of an industry-wide pension scheme must not be legally incompetent or bankrupt.

Industry-wide pension schemes hold an annual general meeting the attendance which sponsoring employers and all members may attend. While every member has one vote, the number of votes of sponsoring employers must be defined in the scheme rules and must not exceed the number of votes of all members. The annual general meeting of an industry-wide pension scheme elects the members of the board, confirms the annual accounts and decides on changes to the scheme rules.

Coverage

Covered population

All schemes: All wage and salary earners, temporary employees in certain industries and self-employed persons, including musicians, artists, actors, farmers and seamen.

Enforcement of affiliation

All schemes: The Finnish Centre for Pensions (FCP) supervises the compliance of employers with their obligation to affiliate their employees and contribute to a mandatory occupational pension scheme. If an employer does not comply with these requirements, the FCP affiliates the employees to an insurance scheme, pays contributions for them and recovers its costs plus a fine from the employer. The FCP also supervises the compliance of self-employed persons under the Self-Employed Persons' Pensions Act (YEL).

As regards the Self-Employed Persons' Pensions Act (YEL), the Seamen's Pensions Act (MEL), the Temporary Employees' Pensions Act (LEL) and the Freelance Employees' Pensions Act (TaEL), compliance is supervised by the respective institution established by law (see section Types of schemes).

The Insurance Supervision Authority (ISA) supervises marketing activities of, and competition between, pension insurance companies.

Financing / Investment

Sources of funds

All schemes: Pension schemes have some discretion in determining member and employer contribution rates. If the funding level of a pension institution allows, pension schemes may reduce contribution rates or refund paid contributions.

Member contributions

TEL, LEL and TaEL: Under the Employees' Pensions Act (TEL), the Temporary Employees' Pensions Act (LEL) and the Freelance Employees' Pensions Act (TaEL) employees contribute 4.3% of salary if under age 53 and 5.4% if age 53 or more.

MEL: Under the Seamen's Pensions ACT (MEL) employees contribute 11% of salary.

YEL: Under the Self-Employed Persons' Pensions Act (YEL) self-employed persons contribute 20.8% if under age 53 and 21.9% if age 53 or more.

MYEL: In the case of Farmers' Pensions Act (MYEL), the contribution rate increases with income: members under age 53 contribute between 10.19% and 20.8% of income and between 10.73% and 21.9% if age 53 or more.

Employer contributions

TEL: In the case of Employees' Pensions Act (TEL), employers contribute on average 16.7% of employees' salaries. The actual employer contribution varies with the size of the company. Employers with less than 50 employees pay 16.5% (it has been temporarily lowered to compensate for a disability pension development). If the number of employees is 50 or more, the contribution rate depends on the number of employees, the age distribution of the company,

and its own disability pension history. The average contribution rate in this group is 17.1%.

MEL: The employer contribution is 11% of employees' salary under the Seamen's Pensions Act (MEL).

LEL and TaEL: The employer contribution is 16.7% of employees' salary under the Temporary Employees' Pensions Act (LEL) and the Freelance Employees' Pensions Act (TaEL).

Other sources of funds

All schemes: None for the Employees' Pensions Act (TEL), the Temporary Employees' Pensions Act (LEL) and the Freelance Employees' Pensions Act (TaEL).

In the case of Seamen's Pensions Act (MEL), the government pays one-third of benefit expenditure and covers any deficits under the Self-Employed Persons' Pensions Act (YEL) and the Farmers' Pensions Act (MYEL).

Pension accrual during periods of study, childcare and unemployment granted from 1 January 2005 (see section Retirement benefits, Benefit structure / formula) are financed by the government.

Methods of Financing

MYEL and YEL: Benefits are financed on a pay-as-you-go basis under Farmers' Pensions Act (MYEL) and Self-Employed Persons' Pensions Act (YEL).

All other schemes: Thirty per cent of pension liabilities must be funded.

The remaining 70% is financed on a pay-as-you-go basis through a pooling mechanism administered by the Finnish Centre for Pensions (see section Institutional framework).

Asset Management

All schemes: A currency matching requirement stipulates that a maximum of 20% of liabilities in a certain currency can be covered by assets in another currency.

Of total assets invested:

- A maximum of 100% may be in bonds issued by the government of country of the European Economic Area (EEA);
- A maximum of 50% may be in quoted shares or debt obligations the debtor or the guarantor of which is a credit institution licensed and under public supervision in an EEA country;
- A maximum of 40% may be in real estate;
- A maximum of 5% may be in unquoted shares (applies only to insurance schemes, since company and industry-wide pension funds cannot invest in unquoted shares);
- A maximum of 5% may be in shares issued by a single company.

Solvency rules in some cases impose additional restrictions on investment in shares due to the higher risk of these investments. The higher the investment risk, the higher the solvency required and the institution's solvency margin might in some cases insufficient to invest up to 50% of total assets in shares (see section Protection of Rights, Financial and technical requirements / reporting).

The rate of return from investments must be at least 6% in 2006.

Insurance schemes: The assets are managed by the pension insurance company. The board of directors of the company must establish an asset management strategy that must include a statement by the actuary pointing out the asset management demands arising from the structure of pension liabilities.

Pension insurance companies must have sufficient personnel to carry out the asset management. The persons responsible for asset management must be independent from other institutions involved in the management of the scheme.

Supplementary services for financial management, back-up activities or other services may be contracted out provided that this does not compromise the autonomy of the pension insurance company's investment decisions.

Company and industry-wide pension schemes: The board of directors of the company or industry-wide pension scheme must establish an asset

management strategy that must include a statement by the actuary pointing out the asset management demands arising from the structure of pension liabilities. The asset management must be contracted to external asset managers but the board of directors remains ultimately responsible.

Of total assets invested, a maximum of 25% may be in the sponsoring employers, with a maximum of 15% in a single type of investment and a maximum of 5% in shares of a single employer.

In the case of company pension schemes, more than 50% of all assets may be borrowed by the sponsoring employers if secured by collateral (i.e. assets that secure a debt obligation). Interest at least equal to the interest used for calculating pension liabilities must be charged on the loans.

Benefit provisions

Preservation, portability, transferability

All schemes: Accrued rights are fully portable.

Assets are not transferred between the former employer's pension scheme and the scheme of the new employer. The pension scheme with which members are insured at retirement pays the full pension, regardless of whether members may have been insured with several pension schemes during their career.

The Finnish Centre for Pensions (FCP) keeps track of contributions and periods of membership of different pension schemes. It settles different pension schemes' liabilities annually and does the necessary clearing to ensure that the costs of each pension scheme correspond to the claims made to the FCP (see section Institutional Framework).

Pension rights are preserved if members interrupt or terminate participation in the labour market before retirement age. Preserved rights are indexed in line with an index for which changes in the Consumer Price Index weigh 20% and those in wages weigh 80%.

Retirement Benefits

Benefit qualifying conditions

All schemes: Retirement age is flexible from age 63 to age 68 for both men and women. Early retirement is possible before age 63 and retirement may be deferred beyond age 68. In both cases, benefits are actuarially adjusted.

Gradual retirement is possible with a part-time benefit between age 58 and age 67 for members who:

- Considerably reduce their weekly working hours (from 16 to 28 hours a week and earnings equal to 35% to 70% of full-time earnings);
- Have been employed full-time for 12 of the last 18 months;
- Have been covered for at least 5 of the last 15 years.

Unemployment benefit may be paid to members born before 1 January 1950 provided that the member:

- Is aged 60 or more;
- Has drawn unemployment allowance for the maximum period of 500 days;
- Has accrued rights to an earnings-related pension for at least 5 years of the last 15 years;
- Is a registered job seeker with the employment office.

Withdrawal of funds before retirement

All schemes: Not permitted.

Benefit structure / formula

All schemes: Defined benefit.

The yearly pension accrual rate is 1.5% of pensionable earnings for members aged 18 to 52, 1.9% for members aged 53 to 62, and 4.5% for members aged 63 to 68. The pension is reduced by 0.6% for each month of early retirement before age 63 and increased by 0.4% for each month of deferral after age 68.

Pensionable earnings are defined as the average adjusted earnings over the entire career.

Pension rights also accrue during periods of study up to 5 years, for periods caring for children up to age 3

and for unemployment.

Benefits are paid as pensions for life. Lump-sum payments are prohibited.

The part-time pension is 50% of the difference between the former full-time earnings and the earnings from part-time work.

The unemployment pension equals the amount of disability pension (see section Disability). Old-age pension rights continue accruing during the receipt of the unemployment pension. At age 62, the unemployment benefit is transformed into a regular old-age pension.

Benefit adjustment

All schemes: All benefits are adjusted in line with an index for which changes in the Consumer Price Index weigh 80% and in wages weigh 20%.

Survivors

Benefit qualifying conditions

All schemes: Pensions are payable to surviving spouses if:

- The marriage took place prior to the deceased member reaching age 65 and the surviving spouse reaching age 50; and
- The surviving spouse is aged 50 or older at the time of the member's death; and
- The marriage has lasted for at least 5 years.

The last two eligibility conditions are waived if the surviving spouse has dependents.

Entitlement to a survivor pension ceases on remarriage, unless the eligible survivor is older over age 50.

Orphans' pensions are provided to legal, adopted and supported children under age 18.

If the deceased member was paying alimony to a former spouse according to a court order or an agreement confirmed by the Social Security Committee, the former spouse is entitled to survivor pensions on equal terms with the widow(er).

Benefit structure

All schemes: The surviving spouse's pension varies with the number of orphans entitled to orphans' pensions. With one child, the spouse's pension is 50% of the deceased's retirement benefit if already retired or 50% of the retirement benefit the member would have accrued, at the same rates as the retirement benefit, until the earliest normal retirement age (i.e. age 63) (see section Retirement benefits, Benefit structure / formula); if there are two, three, or four or more children the spouse pension is 42%, 25% or 17% respectively.

From the 7th month of receipt, if there are no children under age 18 the spouse's pension is reduced by the retirement benefit accrued by the surviving spouse (even if not in payment).

The orphan's pension for one orphan, is 33% of the deceased's retirement benefit if already retired or 50% of the retirement benefit that the member would have accrued, at the same rates as the retirement benefit, until the earliest normal retirement age (i.e. age 63); if there are two, three, or four or more orphans the pension is 58%, 75% or 83% respectively. The benefit is split equally among eligible orphans.

Survivor's benefits are adjusted in line with an index for which changes in the Consumer Price Index weigh 80% and in wages weigh 20%.

Disability

Benefit qualifying conditions

All schemes: Partial disability benefit is provided to disabled members whose earnings capacity is reduced by at least 40%. Full disability benefit requires a 60% reduction. In calculating the reduction in earnings capacity, the focus must be on the remaining earnings capacity as well as on factors such as the member's education, former working experience and the member's age.

Before disability benefit is provided, the pension institution must explore the member's possibility of rehabilitation. Disability pension can be granted as a temporary cash rehabilitation benefit if working capacity is expected to return.

Disability benefits are payable after the exhaustion of 300 days of cash sickness benefits.

No disability pension is paid if the disabled person's monthly income from employment exceeds EUR 243.79.

Benefit structure

All schemes: Full disability benefit is equal to the retirement benefit that the member would have accrued, at the same rates as the retirement benefit, until the earliest normal retirement age (i.e. age 63) (see section Retirement benefits, Benefit structure / formula). The period from the onset of disability to age 63 is only considered in the benefit calculation if the disabled member has earnings of at least EUR 13,358.40 in the last 10 years before the onset of disability.

Partial disability pension is 50% of full disability benefit.

Disability benefits are adjusted in line with an index for which changes in the Consumer Price Index weigh 80% and in wages weigh 20%.

Protection of Rights

Protection of Assets

All schemes: Pension schemes must be independent legal entities and keep the scheme assets completely separate from the assets of sponsoring employers.

Financial and Technical Requirements / Reporting

All schemes: Pension schemes must appoint an actuary to carry out technical calculations and actuarial assessments. The actuary must calculate regularly the pension liability of the pension scheme. The basis for this calculation is defined by the Ministry of Social Affairs and Health.

Annual accounts must be prepared and the pension liabilities must be disclosed in the balance sheet. Annual accounts must be audited by one or more approved auditors who must prepare a statement on the accounts. In the case of company and industry-wide pension schemes only one approved auditor is required while in the case of insurance schemes one or more approved deputy auditors may also be required.

The pension scheme's solvency is measured by a prescribed solvency margin. The solvency margin compensates for shortfalls in the rate of return. As long as the solvency margin is adequate, funding surpluses can be used to reduce or refund contributions.

If the solvency margin is inadequate, the pension scheme must establish a plan to correct this situation and submit it to the Insurance Supervision Agency (ISA). If an adequate solvency margin is not achieved within a certain period, the pension scheme must be wound up (see section Protection of Rights, Winding up / merger and acquisition).

All schemes must submit the following documents to the ISA:

- Annual accounts together with the auditor's statement;
- Annual statistical activities report;

Insurance schemes must also submit quarterly reports, and company pension schemes and industry-wide pension schemes half-yearly reports, to the ISA containing information on the calculation of the solvency margin and on assets covering pension liabilities.

Industry-wide pension fund schemes must, in addition, submit minutes of their annual general meetings to the ISA.

Whistleblowing

All schemes: Auditors must immediately inform the Insurance Supervision Authority (ISA) of any circumstances, decisions or events concerning the pension scheme that can be regarded as:

- Materially violating any legal requirements;
- Materially violating any criteria applied to the granting of licenses (insurance schemes);
- Endangering the continuation of the pension scheme's operations;
- Leading to a negative opinion on the adoption of the annual accounts in the auditor's report.

Auditors must also notify the ISA of any such circumstances, decisions or events concerning an undertaking that has a controlling interest in the pension scheme.

Standards for service providers

All schemes: Auditors must be independent and approved by the Central Chamber of Commerce.

Actuaries must comply with qualifications defined by the Ministry of Social Affairs and Health.

Fees

All schemes: No legal rules.

Winding up / Merger and acquisition

All schemes: Legal rules govern the liquidation, winding up, merger, acquisition, asset transfer and demerger of pension schemes.

If a pension scheme's solvency margin is inadequate and redress measures fail, the scheme must be liquidated and wound up and its assets transferred to another pension scheme.

The Insurance Supervision Authority (ISA) may take possession of a scheme's assets if:

- The solvency margin or capital is inadequate;
- The license has been withdrawn (insurance schemes);
- The requirements concerning assets covering pension liabilities are not complied with;
- There are other reasons justifying such action.

In the case of merger and demerger the assets and liabilities of a pension scheme are transferred without a liquidation process.

Institutions implementing the Temporary Employees' Pensions Act (LEL), the Freelance Employees' Pensions Act (TaEL), the Farmers' Pensions Act (MYEL) and the Seamen's Pensions Act (MEL) are established by law and cannot be wound up, merged or acquired. The ISA may under certain circumstances take possession of the assets of the Sailors' Pension Fund.

Bankruptcy: Insolvency Insurance / Compensation Fund

TEL, LEL and TaEL: For the Employees' Pensions Act (TEL), Temporary Employees' Pensions Act (LEL) and Freelance Employees' Pensions Act (TaEL), a joint and collective pension guarantee system, in which all pension schemes must participate, ensures that full benefits are paid if a scheme is bankrupt.

MYEL and YEL: The government guarantees the payment of accrued benefits under Farmers' Pensions Act (MYEL) and Self-Employed Persons' Pensions Act (YEL).

MEL: In the case of Seamen's Pensions Act (MEL), the government guarantees and pays one-third of the pension benefits.

Disclosure of information / Individual action

All schemes: The Finnish Centre for Pensions (FCP) and the sponsoring employers must upon request provide information to members concerning their accrued rights and benefit eligibility conditions.

Information about the respective pension scheme must be provided on each employer's notice board.

Members may complain to the Pensions Appeal Board (PAB) about the decisions of a pension scheme or of the FCP. If they are not satisfied with the decision of the PAB, they may complain to the Insurance Court. In addition, members may claim for compensation in line with legislation governing indemnity liabilities.

Other measures

All schemes: None.

Tax Treatment

Taxation of member contributions

All schemes: Tax-deductible.

Taxation of employer contributions

All schemes: Tax-deductible.

Taxation of investment income

All schemes: Investment income transferred to the solvency margin is tax-deductible.

Taxation of benefits

All schemes: Taxable as earned income.

Regulatory and Supervisory Authorities

Insurance Supervision Authority: Supervises insurance schemes and company and industry-wide pension fund schemes and other institutions in the insurance sector. It was established in 1999 and reports to the Minister of Social Affairs and Health.

The Insurance Supervision Authority (ISA) carries out its supervisory role mainly through the verification of documents that must be submitted by supervised entities and control of their solvency margin and funding. The ISA may request any necessary information from pension schemes.

A representative of the ISA is entitled to:

- Carry out on-site inspections;
- Attend internal meetings of the pension institutions.

If the ISA detects any irregularity or noncompliance with legal requirements with respect to the operation of a pension scheme, it may:

- Request the scheme to remedy the irregularity within a specified period;
- Prohibit the scheme from continuing a certain action;
- Impose a penalty to enforce the request or prohibition.

If the pension institution does not comply with the request or prohibition, the ISA may prohibit a pension insurance company from contracting new policies, limit the license of the company or withdraw its license altogether. As for company and industry-wide pension schemes, the ISA may partially or fully wind up the institution.

The ISA may prohibit the implementation of a resolution of the general meeting of an industry-wide pension scheme or of the board of directors of a pension institution if such implementation would lead to noncompliance with legal requirements or an irregularity with respect to the operation of the scheme.

The board of directors of the ISA consists of six members of which:

- Three are appointed by the Ministry of Social Affairs and Health (of which one upon proposal of the Bank of Finland and one upon proposal of the Ministry responsible for credit institutions' business);
- One is the director general of the ISA;
- One is the director of the Insurance Department of the Ministry of Social Affairs and Health;
- One is chosen by and among the staff of the ISA.

Vakuutusvalvontavirasto
PO Box 449
Mikonkatu 8
00101 Helsinki
Finland
Tel.: (+358) 9 415 5950
Fax: (+358) 9 415 5966 0
Internet: www.vakuutusvalvonta.fi

Ministry of Social Affairs and Health: Authorizes the establishment of insurance companies and determines the employer and member contribution rates under the different pension acts.

Sosiaali- ja Terveysministeriö
PO Box 33
00023 Valtioneuvosto
Finland

Tel.: (+358) 9 1600 1
Fax: (+358) 9 1607 4126
Internet: www.stm.fi

Finnish Centre for Pensions: Manages the pay-as-you-go component of the system, supervises compliance with membership requirements, ensures that contributions and benefits are paid correctly,

keeps track of contribution periods of members under different pension schemes and provides expert services to employers, self-employed persons and authorities needing advice and information on occupational pensions. It is administered by a board consisting of representatives of employers, employees and the government.

Eläketurvakeskus
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France

Exchange rate: USD 1.00
equals 0.84 euros (EUR)

Regulatory Framework

1994: Law 94-678; confirms the role of pension institutions in the implementation of the complementary pension schemes Agirc and Arrco and strengthens the supervision of the national associations of pension institutions over their operations.

1985: Fiscal Instructions 4E-2-85 and 5F-23-85; regulate the tax treatment of contributions and benefits.

1972: Law 72-1223; makes Agirc and Arrco mandatory for covered employees.

1945: Social Security Code; defines the relation between the publicly managed social security and complementary pension schemes.

Types of Schemes

Complementary occupational pension schemes were established by two nationwide collective agreements concluded between unions and employer representatives:

- An agreement in 1947 created a complementary occupational pension scheme (*Association générale des institutions de retraites des cadres* - Agirc) for private-sector executives (*cadres*) with salaries above the social security ceiling. This collective agreement has been revised regularly with major revisions in 1988, 1994, 1996, 2001 and 2003.
- An agreement in 1961 created a complementary occupational pension scheme (*Association des régimes de retraites complémentaires* - Arrco) for private-sector employees not covered by Agirc. Coverage was later extended to all private-sector employees (with members of Agirc only covered for salaries up to the social security ceiling). This collective agreement has been revised regularly with major revisions in 1973, 1993, 1996, 2001 and 2003.

Agirc and Arrco agreements are to be revised in 2008 by social partners.

Both complementary occupational pension schemes are specific types of defined contribution schemes, financed on a pay-as-you-go basis and implemented through pension institutions. They are considered as social security schemes for the purposes of EU regulation 1408/71.

Legislation (see section Regulatory framework) introduced in 1972 upon request of unions and employer representatives made it compulsory for all private-sector employers to join Agirc and Arrco and to affiliate all employees covered by Arrco to a pension institution implementing Arrco and all executives covered by Agirc to a pension institution implementing Agirc.

The regulatory and supervisory role of the government is low and scheme rules, implementation and the supervision of pension institutions are regulated in collective agreements. While the government cannot change the scheme rules, all revisions of the collective agreements creating Agirc and Arrco respectively must be approved by the Minister of Social Affairs, Labour and Solidarity.

Public-sector employees, civil servants and self-employed persons are covered by separate mandatory or voluntary complementary pension schemes. Information on these schemes is not provided further in the following sections.

Institutional Framework

Agirc and Arrco: Pension institutions are private nonprofit-making entities established by collective agreements with the single aim of implementing Agirc or Arrco respectively. Pension institutions may implement either Agirc or Arrco but not both schemes at the same time.

The establishment of a pension institution is subject to

the approval of the Minister of Social Affairs, Labour and Solidarity.

Pension institutions may be established on a sectoral basis in which case membership is restricted to the covered employees of employers in the industry sector. Most pension institutions have, however, been established as open pension institutions that cover employees of any employer without regard to the industry sector. Geographical restrictions have been introduced (see below).

Employers eligible to join a sectoral pension institution must do so. If not eligible to join a sectoral pension institution, employers established before 1 January 2002 could join any open pension institution. With effect from 1 January 2002, however, two institutions implementing Agirc and two institutions implementing Arrco have been designated for each region of the country. Employers established after 1 January 2002 not eligible to join a sectoral pension institution must join an open pension institution operating in the region where the company has its headquarters. Once an employer has joined a pension institution all covered employees are automatically affiliated to the institution.

Pension institutions manage the contribution and benefit administration.

In order to reduce administrative costs, unions and employer representatives have invited pension institutions implementing Agirc and Arrco respectively in one region to form groups known as retirement groups (*groupe de retraite*) consisting of one pension institution implementing Agirc and one pension institution implementing Arrco. Employers are in this case only required to join, and deal with, the retirement group and not two different institutions.

All pension institutions must join the appropriate national associations of pension institutions Agirc and Arrco (the names designate both the schemes and the national associations). Agirc and Arrco are private nonprofit-making institutions with the main functions to:

- Supervise pension institutions and retirement groups;
- Control the financial statements of pension institutions;
- Issue regulations concerning the implementation of the two pension schemes;
- Organize a system of financial compensation between pension institutions to ensure solidarity between employers, regions and industry sectors;
- Administer an arbitration procedure for complaints lodged by members, pensioners and employers.

Pension institutions and the national associations are governed by a board consisting of an equal number of union and employer representatives. There are no legal rules concerning the governance of pension institutions or national associations and there are no legal fit and proper requirements for members of the board.

The national associations have formed a group relationship (*Groupement d'interêt économique* - GIE Agirc - Arrco) and aligned their management and services in order to rationalize administrative processes, improve the quality of services and achieve the convergence of information systems used by the two associations and their members. Each national association keeps, however, its own legal status and internal governance structure.

GIE Agirc - Arrco is governed by a board consisting of an equal number of representatives of the two associations and a managing director.

Coverage

Covered population

Agirc: Private-sector employees that fall into the category of executives (*cadres*) as defined by sectoral collective agreements.

Executives are covered for the part of their salary between one and eight times the social security ceiling (ceiling is EUR 2,589 a month as of January 2006).

Arrco: Private-sector employees.

Employees not eligible for membership of Agirc are covered for the part of their salary up to three times the social security ceiling. Executives also covered by

Agirc are covered for the part of their salary up to the social security ceiling.

Enforcement of affiliation

Agirc and Arrco: Sanctions are applied to employers who do not comply with the obligation to join a pension institution.

Financing / Investment

Sources of funds

Agirc and Arrco: Two types of contribution rates exist:

- A contractual contribution rate (*taux contractuel*) that is a hypothetical rate on which benefit accrual is based;
- An actual contribution rate (*taux d'appel*) that is based on the resources needed to pay benefits.

The actual contribution rate is 125% of the contractual contribution rate. The following information refers to the actual rate.

Agirc: The total contribution is 20% of the part of the salary between one and eight times the social security ceiling (ceiling is EUR 2,589 a month as of January 2006).

Arrco: The total contribution is 7.5% of the part of the salary up to the social security ceiling.

For the part of the salary of nonexecutive employees between one and three times the social security ceiling, the total contribution depends on the date of the establishment of the employer. The contribution rate is 15% in the case of employers established before 1 January 1997 and 20% in the case of employers established after that date.

Member contributions

Agirc: Employees contribute 37.5% of total contributions payable on the part of the salary between one and four times the social security ceiling.

The employees' share of total contributions payable on the part of the salary between four and eight times the social security ceiling is negotiated between employer and employees at the company level.

Arrco: Employees contribute one-third of total contributions.

Employer contributions

Agirc: Employers contribute 62.5% of total contributions payable on the part of the salary between one and four times the social security ceiling.

The employer's share of total contributions payable on the part of the salary between four and eight times the social security ceiling is negotiated between employer and employees at the company level.

Arrco: Employers contribute two-thirds of total contributions.

Other sources of funds

Agirc and Arrco: Early retirement between ages 60 and 65 with full benefits is financed through a special fund AGFF (*Association pour la gestion du fonds de financement de l'Agirc et l'Arrco*) administered by unions and employer representatives at the national level. Early retirement with full benefits is based on a collective agreement that has recently been renewed until December 2008.

The AGFF is financed by additional employee and employer contributions of 2% of the part of the salary up to the social security ceiling (0.8% of which is paid by employees and 1.2% by employers). The contribution rate is 2.2% for the part of the salary between one and three times the social security ceiling for nonexecutives and for the part of the salary between one and four times the social security ceiling for executives (0.9% of which is paid by employees and 1.3% by employers).

Benefit accrual continues when members become unemployed as long as they are eligible for unemployment benefits. UNEDIC (*Union nationale pour l'emploi dans l'industrie et le commerce*) administers the unemployment insurance scheme and pays a part of the contribution for unemployed members while the other part of the contribution is a percentage of the unemployment benefit. If the member receives a State financed preretirement benefit, the State pays the contributions to continue

the accrual of benefits.

The national associations Agirc and Arrco administer a system of financial compensation between pension institutions and between the two schemes. Pension institutions whose contribution income is not sufficient to meet current benefit obligations receive transfers from other pension institutions.

Agirc: An additional temporary contribution of 0.35% of salary up to eight times the social security ceiling (0.13% of which is paid by employees and 0.22% by employers) applies. This contribution does not accrue old-age benefits and is used to balance the scheme financially.

Methods of Financing

Agirc and Arrco: Pay-as-you-go.

Asset Management

Agirc and Arrco: Not applicable.

Both schemes are financed on a pay-as-you-go basis. However, cash flow reserves are held and invested in bonds and investment fund units.

Benefit provisions

Preservation, portability, transferability

Agirc and Arrco: Membership continues when a member changes employment within the private sector and accrued benefits are fully portable between private-sector employers.

Upon termination of covered employment before retirement (e.g. in the case of taking up employment in the public sector), accrued rights are preserved and revalued through the regular adjustment of pension points (see subsection Benefit adjustment).

Retirement Benefits

Benefit qualifying conditions

Agirc and Arrco: Retirement age is 65 for both men and women.

Full benefits are payable from age 60 as and when a member qualifies for a full pension under the publicly managed social security scheme. The costs of providing full benefits before age 65 are covered through a special fund (AGFF - see section Financing / investment).

Early retirement for long careers is possible between age 56 and 58 if the member started to work before age 16, or age 59 if started to work before age 17, with 42 years of insurance into the publicly managed social security scheme.

Early retirement with reduced benefits is possible from age 55.

Deferred retirement is allowed and there is no upper age limit on membership. Contributions made after age 65 continue to accrue benefits but no increments are paid.

Before age 60 members can receive benefits and income from work. From age 60, benefits and income from work must not exceed the salary received prior to benefit receipt.

Withdrawal of funds before retirement

Agirc and Arrco: Not applicable as benefits are financed on a pay-as-you-go basis.

Benefit structure / formula

Agirc and Arrco: Specific types of defined contribution schemes.

The contributions calculated based on the contractual contribution rate (see section Financing / investment) purchase pension points at the cost of EUR 4.5444 for one Agirc point and EUR 12.0852 for one Arrco point, from April 2006.

The pension benefit equals the number of accrued pension points times the value of a pension point. The value of a pension point is EUR 0.4005 in the case of Agirc and EUR 1.1287 in the case of Arrco, from April 2006.

Benefits are generally payable as pensions (regular income stream) but a lump sum is paid if a retiree has accrued less than 500 points in the case of Agirc or less than 100 points in the case of Arrco. The latter

scheme allows retirees to choose between pension and lump sum if they have accrued between 100 and 200 points.

Early retirement benefits payable between ages 55 and 60 are reduced by coefficients ranging between 0.43 at age 55 and 0.78 at age 60.

Early retirement benefits between ages 60 and 65 (or earlier in the case of long careers - see section Benefit qualifying conditions), are not reduced if the retiree qualifies for a full pension under the publicly managed social security scheme (i.e. has 160 quarters of insurance coverage under this scheme, 161 in 2009 and rising to 164 in 2012). Benefits are reduced for other retirees (except for certain categories of retirees such as veterans) and the reduction depends on age and length of insurance in the case of retirees who have been insured for between 140 and 159 quarters under the publicly managed social security scheme. The reduction depends only on age in the case of retirees with less than 140 quarters of insurance. The reduction coefficient ranges between 0.78 at age 60 or with 140 quarters of insurance and 0.99 at age 64 and nine months or with 159 quarters of insurance. The more favourable of the two coefficients based on age or length of insurance respectively is applied.

Benefit adjustment

Agirc and Arrco: Benefits are recalculated according to the adjustment of the value of a pension point.

The adjustment of pension points is determined each year jointly by the national associations Agirc and Arrco and is currently made in line with prices.

Survivors

Benefit qualifying conditions

Agirc: Survivor benefits are paid upon death of a member before or in retirement.

Survivor pensions are provided to the spouse from age 60 (no age limit if disabled or has two dependent children) and to full orphans under age 21 (no age limit if disabled). A reduced spouse pension may be paid from age 55. The reduction is not applied if, or is suspended when, the spouse receives a survivor pension from the social security scheme. Pensions are not means-tested.

Spouse pensions cease on remarriage.

Arrco: Survivor benefits are paid upon death of a member before or in retirement.

Survivor pensions are provided to the spouse from age 55 (no age limit if disabled or has two dependent children) and to full orphans under age 21 (age 25 if student, no age limit if disabled). Pensions are not means-tested.

The surviving spouse must not have remarried. Survivor pensions are suspended in case of remarriage.

Benefit structure

Agirc: The pension paid to the spouse from age 60 is equal to 60% of the deceased member's accrued benefit (i.e. accrued pension points times pension point value) or retirement benefit in payment; 30% to each full orphan. The spouse pension is reduced by 1.6% for each year before age 60 being 52% of the deceased member's accrued benefit at age 55. The reduction ceases if the spouse receives a survivor pension from the social security scheme

Arrco: The pension is equal to 60% of the deceased member's accrued benefit or retirement benefit in payment for the spouse; 50% to each orphan.

Disability

Benefit qualifying conditions

Agirc and Arrco: Disability benefits are not provided.

Benefit structure

Agirc and Arrco: Disability benefits are not provided.

Protection of Rights

Protection of Assets

Agirc and Arrco: Not applicable as financed on a pay-as-you-go basis.

Financial and Technical Requirements / Reporting

Agirc and Arrco: The national associations of pension institutions Agirc and Arrco establish the financial and accounting rules to be used by pension institutions.

Each pension institution must prepare annual financial statements and have them audited by an auditor and an assistant auditor. The audited financial statements must be submitted to the national associations Agirc and Arrco respectively for examination.

The annual financial statements and an annual activity report must be published.

The national associations Agirc and Arrco must prepare yearly financial statements that are verified by a commission consisting of union and employer representatives.

Whistleblowing

Agirc and Arrco: No legal rules.

Standards for service providers

Agirc and Arrco: Auditors must be registered with the responsible regional body (*Conseil régional des commissaires aux comptes*).

Fees

Agirc and Arrco: No legal rules.

Union and employer representatives define the evolution of administrative costs in collective agreements.

Winding up / Merger and acquisition

Agirc and Arrco: The decision to merge institutions is made by the respective administrative board or extra-ordinary general assembly. Mergers of pension institutions are subject to the approval of the Minister of Social Affairs, Labour and Solidarity who decides based on the opinion of the concerned national association Agirc or Arrco.

Bankruptcy: Insolvency Insurance / Compensation Fund

Agirc and Arrco: Not applicable.

The national associations Agirc and Arrco administer a system of financial compensation between pension institutions and between the two schemes. If the contribution income of a pension institution is not sufficient to meet current benefit obligations, it receives transfers from other pension institutions.

Disclosure of information / Individual action

Agirc and Arrco: Pension institutions must inform members annually about the number and value of their accrued pension points.

Since the introduction of the right for a comprehensive information on pension rights in 2003, thirty-six pension schemes, among them Agirc and Arrco, have joined an interest group relationship (*Groupement d'intérêt Public*), which will be operative in 2007. They will collect and combine their data to provide insured people with a full statement of their pension rights and pension estimation at different age every 5 years. In 2007, insured people between age 50 and 58 will receive this statement.

Contributing members, pensioners and employers may lodge complaints about their pension institutions with the arbitration services administered by the national associations Arrco and Agirc.

Other measures

Agirc and Arrco: None.

Tax Treatment

Taxation of member contributions

Agirc and Arrco: Tax-exempt.

Taxation of employer contributions

Agirc and Arrco: Tax-exempt.

Taxation of investment income

Agirc and Arrco: Not applicable.

Taxation of benefits

Agirc and Arrco: Taxed as income.

Regulatory and Supervisory Authorities

General Inspectorate of Social Affairs: Supervises the implementation of the schemes Agirc and Arrco.

Inspection générale des affaires sociales
25-27 rue d'Astorg
75008 Paris
France
Tel.: (+33) 1 40 56 60 00
Internet: www.cohesionsociale.gouv.fr

Association pour le régime de retraite complémentaire des salariés (Arrco) and Association générale des institutions de retraite des cadres (Agirc): National associations with the main functions to:

- Supervise pension institutions and retirement groups;
- Control the financial statements of pension institutions;
- Issue regulations concerning the implementation of the two pension schemes;
- Organize a system of financial compensation between pension institutions to ensure solidarity between employers, regions and industry sectors;
- Administer an arbitration procedure for complaints lodged by members, pensioners and employers.

AGIRC and ARRCO
16-18, rue Jules César
75592 Paris Cedex 12
Tél.: (+33) 1 71 72 12 00
Internet: www.agirc-arrco.fr

Hungary

Exchange rate: USD 1.00
equals 213.99 forints (HUF)

Regulatory Framework

2003: Act LX; regulates insurance institutions and the insurance business.

2001: Governmental Decree 282; establishes rules concerning the economic activities of pension funds and the investment of fund assets.

2000: Governmental Decree 222; establishes specific requirements concerning annual reporting and bookkeeping liabilities of private pension funds.

2000: Governmental Decree 217; establishes specific requirements concerning annual reporting and bookkeeping liabilities of the Guarantee Fund.

1999: Act CXXIV; establishes the Hungarian Financial Supervisory Authority to supervise the entire financial sector from 1 April 2000.

1997: Act LXXXII; regulates the establishment and the institutional framework of mandatory private pension schemes.

1997: Act LXXX; regulates coverage and entitlements under the publicly managed social security and the mandatory private pension schemes.

1997: Governmental Decree 172; regulates the central registration by pension funds and the obligation of funds and employers to provide data concerning fund members.

1997: Governmental Decree 170; regulates the actuarial and financial planning related to activities of private pension funds and imposes requirements concerning reserves.

1997: Governmental Decree 169; regulates the organization and operation of the Guarantee Fund.

1995: Act CXVII; regulates the tax treatment of contributions and benefits.

Types of Schemes

All covered persons must become a member of a mandatory private pension scheme by joining a mandatory pension fund. These are independent legal entities founded by employers (separately or jointly), chambers of commerce (separately or jointly), professional associations (separately, jointly or with chambers of commerce), employees' interest organizations (separately, jointly, or with the above mentioned entities) or regional governments.

Mandatory private pension schemes are defined contribution and contributions are accumulated in individual accounts.

Pension funds may either take the form of closed (membership restricted to a certain group of persons with a common characteristic) or open funds, regardless of the founder. Closed and open funds are subject to the same legal requirements. All eligible persons may become members of an open pension fund, or a closed fund if eligible, of their choice without any influence of their employers.

If they so wish, employers may supplement their employees' contributions, or fund members may supplement their own contributions, by up to 10% of the contributions base (see section Financing / Investment, Sources of funds).

Institutional Framework

Mandatory pension funds: Mandatory pension funds are independent legal entities owned by their members. Pension funds take the legal form of mutual foundations and may be founded by employers (separately or jointly), chambers of commerce (separately or jointly), professional associations (separately, jointly or with chambers of commerce), employees' interest organizations (separately, jointly or with the above mentioned entities) or regional governments.

If the fund wishes to provide annuities itself, it must obtain a license from the Hungarian Financial

Supervisory Authority (HFSA) at least 1 year (3 years if the fund has fewer than 25,000 members) prior to starting to make such payments.

The licensing of mandatory private pension funds consists of three steps.

First, the founder of the pension fund must apply to the HFSA for a foundation permit. This application must contain the following documents and information:

- Draft deed of foundation;
- Membership estimate;
- Description of how the founder intends to obtain the necessary personal, physical and financial resources;
- Deed of foundation of the founder.

Second, within 30 days of its foundation, the pension fund must submit an application for registration to the county court with territorial jurisdiction. The court will decide whether to approve or reject applications for registration within 60 days of receiving such applications.

The foundation permit is valid for 180 days during which the fund must, as a third step in the licensing process, apply to the HFSA for an operating license. This application must contain the following documents and information:

- The deed of foundation;
- The fund's by-laws;
- The court's decision on the registration of the fund;
- A certificate proving the required number of members;
- The short and long term financial plan;
- The internal regulation on asset management and valuation;
- The internal control system;
- Details of the members of the board and of the official auditor;
- A certificate on personal, material and information technology conditions;
- Contracts with third-party administrators and asset managers, if any, and the custodian.

The HFSA may require modification of any submitted document and must take the final decision within 60 days. The pension fund may operate on a limited scale before the operating license is granted.

There are no minimum capital requirements for pension funds.

The main decision-making body of a pension fund is the general assembly of members where all members have the same voting and representation rights, independent of the amount of capital accumulated in their respective individual accounts in the fund. The general assembly of members must be convened at least twice a year and has, among others, the exclusive rights to:

- Modify the deed of foundation;
- Approve and modify the fund's by-laws;
- Elect and remove the members and chairperson of the board of directors and the supervisory committee and fix their remuneration;
- Approve the directors' annual report and the financial plan for the fund;
- Validate claims for damages against persons acting on behalf of the fund and members of the board of directors before the operating license takes effect;
- Designate persons eligible to represent the fund in legal proceedings;
- Decide on joining or leaving of any organization representing members' interests;
- Decide on the dissolution or splitting of the fund or the merger with another fund;
- Decide on the method of collecting membership fees.

Instead of the general assembly of members, a general assembly of delegates appointed to represent members' interests may perform these functions.

The mandate of the board of directors will last for 5 years from their election or until the new general meeting establishes a new board of directors.

The members of the board of directors must have unblemished professional and civil records, and have the main responsibility to adequately manage the pension fund in compliance with the applicable legislation, the by-laws of the fund and the decisions taken by the general assembly. In this framework, the

board must prepare the main documents of the fund such as the by-laws and the financial plan and, once they are accepted by the general assembly, implement them.

The board of directors must especially:

- Appoint experts, such as an executive director, an investment advisor, an actuary, an auditor and a lawyer;
- Appoint a custodian to keep fund assets, calculate their market values and control the compliance of the investment activity with the applicable legislation;
- Prepare and approve internal regulations concerning asset management and asset valuation if the asset management is carried out by the fund (see section Asset management);
- Prepare and approve regulations concerning annuities if annuities are to be paid by the fund;
- Report to the HFSA and disclose information to members.

The pension fund must have a supervisory committee the members of which must be appointed by the general assembly of members and in which the members' representatives must form the majority. The supervisory committee has the task of regularly inspecting the accounting, financing and operations of the pension fund.

The actuary appointed to the pension fund is responsible for:

- The accuracy of technical data;
- The application of appropriate methods to the plan;
- The preparation of actuarial reports;
- The calculation of reserves;
- Countersigning the main documents regarding the provision of annuities (such as internal regulations concerning annuities or a risk-sharing contract with an insurance company from which the fund buys annuities).

Annuities may be paid by the fund or by an insurance company.

The fund may contract out activities such as administrative tasks, record keeping and registration, asset management, actuarial tasks and payment of annuities. Each of the three latter functions may only be carried out by the fund itself if it establishes an "own activity reserve" of at least HUF 100 million. An outsourced service provider involved in the management and processing of data must be authorized to process data. Data processing and use of data mean the operations that involve personal data and fund secrets are those governed by the Act on the Protection of Personal Data and Access to Information of Public Interest.

At least once a year, the fund's supervisory committee must inspect the performance of outsourced activities and ascertain that they are in compliance with the provisions of the contracts.

The fund is responsible for ascertaining that outsourced service providers are performing their activities in compliance with the legal regulations and with the utmost care. If an outsourced activity is performed in violation of the law or in breach of the contract, the fund must take action it deems necessary and immediately notify the HFSA. The HFSA may prohibit the outsourcing of an activity on the basis of the fund's notification or of any shortcomings that are uncovered during an on-site inspection, or may order the fund to switch to another service provider.

Funds must indicate the outsourced activities in their charter.

Coverage

Covered population

Mandatory pension funds: Membership in a private pension fund is mandatory for employed and self-employed persons younger than age 35 who are new entrants to the labour force and are covered by the Hungarian social insurance pension scheme for the first time.

Any person who is not deemed a new entrant to the labour force may become a fund member voluntarily if the member:

- Is already covered by the Hungarian social insurance pension scheme and is younger than age 30;

- Is covered by the Hungarian social insurance pension scheme for the first time; or
- Is a national of a third country by definition of Act LXXX of 1997 or is a stateless person, and is covered by the Hungarian social insurance pension scheme.

Persons compulsorily obliged to join a pension fund and younger than age 35 must declare to their employer when entering into a pension insurance relationship / contract within 15 days after the commencement of such relationship. Persons who concluded an agreement on the payment of member contributions must declare within the aforesaid deadline to the competent pension insurance organ. The aforesaid persons have to prove the earlier relationship upon which they have to join a pension fund.

Religious, racial, ethnic, political, age or sex discrimination must not be applied against fund members.

Enforcement of affiliation

Mandatory pension funds: If a person who is in the category of persons compulsorily covered (see section Coverage, Covered population) does not select a fund or fails to fulfil the notification requirement, the person will be affiliated to the regional fund that has jurisdiction over their residence. The affiliation is effective as of the date on which the person first enters the category of compulsory coverage.

Pension funds must not refuse any application for membership from an eligible person who meets the criteria specified in the fund's by-laws. When a fund refuses an application for membership, it must notify the Hungarian Financial Supervisory Authority (HFSA).

Pension sales companies are supervised by the HFSA and must obtain a foundation license upon their establishment. After foundation, the companies must apply to the HFSA for an operating license that defines in detail the rules governing the pension marketing business.

Financing / Investment

Sources of funds

Member contributions

Mandatory pension funds: 8% of members' gross monthly earnings, or declared income for self-employed members, which is the base for pension contributions under the social insurance pension scheme. Members may supplement their contributions by up to 10% of the contributions base.

The minimum earnings for contribution purposes are equal to the monthly minimum wage of HUF 62,500.

The maximum daily earnings for contributions purposes are HUF 17,330.

Employer contributions

Mandatory pension funds: Employers are not required to contribute.

Employers may voluntarily supplement their employees' contributions by up to 10% of the contributions base.

Other sources of funds

Mandatory pension funds: None.

Methods of Financing

Mandatory pension funds: Funded in individual accounts.

Asset Management

Mandatory pension funds: A pension fund may manage its assets itself, or partly or entirely entrust an external asset manager with the management of its assets. The external organization entrusted with the management of the fund's assets may only be an investment firm, credit or financial institution, an insurance company or an investment fund management organization that is authorized by the Hungarian Financial Supervisory Authority (HFSA) or that is established in another Member State of the European Union and provides cross-border services according to specific legislation or provides services

through a Hungarian branch.

Pension funds that manage the investment of fund assets itself must establish an "activity reserve" of at least HUF 100 million. In addition, a qualified investment advisor and, if the investment portfolio includes property, a property expert must be appointed.

External asset managers must have a registered and paid-up capital of at least HUF 50 million if they manage a pension fund with assets of less than HUF 2 billion; if the pension fund assets exceed HUF 2 billion, HUF 250 million plus 1% of the pension fund assets managed up to a maximum capital requirement of HUF 1 billion. The external asset manager must not at the same time carry out administration, record keeping or actuarial tasks for the fund.

An investment policy statement must be prepared and approved by the fund's board of directors and reviewed annually.

With regard to the investment of fund assets, prudent person management is explicitly required. The prudent person rule is supplemented by quantitative investment limits.

Of total assets invested:

- A maximum of 50% may be in units of investment funds;
- A maximum of 10% may be in securities issued by the same issuer (except for state bonds);
- A maximum of 30% may be in bonds (except for state bonds);
- A maximum of 25% may be in mortgage bonds;
- A maximum of 20% may be in securities issued by organizations belonging to the same banking group;
- A maximum of 10% may be in units of real estate investment funds.

Pension funds are allowed to invest a maximum of 30% of their assets in foreign currency, out of which a maximum of 20% may be invested in nonOECD countries.

Direct investment in property is limited to 5% of total assets.

Funds must not directly own more than 10% of the registered capital or equity of a business for more than 1 year.

Pension funds must not have ownership in businesses in which the founders of the fund, the employers of the fund members, the donors or service providers of the fund own more than 10% of the shares.

A required minimum rate of return applies and the pension fund must make up any shortfall if the investment performance falls below this minimum rate. Each year the HFSA determines an expected return band. The minimum rate of return has been 20% of the official return index of long-term government bonds. If the actual return is more than 200% of the long-term government bond return, a reserve has to be credited (see section Protection of rights, Financial and technical requirements / reporting).

Fund assets must be kept by a custodian.

The owners and executive officers (or their relatives) of an asset management company must not be executive officers and employees (or their relatives) of the pension funds it manages.

There is no minimum / maximum limit on asset management fees.

Benefit provisions

Preservation, portability, transferability

Mandatory pension funds: Members may change their pension fund if they have been with their current fund for at least 6 months.

The pension fund making the transfer to another fund may charge a fee of up to 0.1% of the sum transferred.

Retirement Benefits

Benefit qualifying conditions

Mandatory pension funds: In order to take the private pension the member must be eligible for

retirement (including partial or advanced retirement) under the publicly managed social insurance scheme. The retirement age is 62 for men and 60 (rising gradually to age 62 by 2009) for women, with 20 years of service. Reduced age and service requirements apply for those working in arduous or unhealthy conditions.

Withdrawal of funds before retirement

Mandatory pension funds: Not permitted.

Benefit structure / formula

Mandatory pension funds: Defined contribution.

At retirement, members who have contributed for less than 15 years may opt for the accumulated capital to be paid as a lump sum. Otherwise, it must be used to purchase a life annuity. Four annuity options are available:

- Individual life annuity;
- Joint life annuity for a fixed period with a set beginning;
- Joint life annuity for a fixed period with a set end;
- Joint survivorship annuity.

In calculating the annuity, unisex mortality rates must be applied. Annuities may either be provided by the pension fund itself (see section Institutional framework for minimum requirements in this case) or bought from an insurance company.

Benefit adjustment

Mandatory pension funds: Annuities must be indexed in the same way as the pension benefit under the publicly managed social security scheme i.e. annually in January based on the average of the estimated increases in the consumer price index and the net average earnings.

Survivors

Benefit qualifying conditions

Mandatory pension funds: Eligible survivors include surviving spouses, orphans, brothers and sisters, and parents.

Benefit structure

Mandatory pension funds: In the case of the death of a contributing fund member, an eligible survivor may choose to receive the accumulated capital in the individual account as a lump sum or transfer it to the publicly managed social security scheme to increase the benefit from that scheme. In the latter case, the eligible survivor receives a full survivor pension instead of the 75% survivor pension that is paid if the capital is not transferred. The amount of pension from the publicly managed scheme does not depend on the amount of capital transferred.

In the case of the death of a pensioner, depending on the type of annuity contract selected, a designated survivor(s) may continue to receive annuity payments.

Disability

Benefit qualifying conditions

Mandatory pension funds: Members are eligible if they are deemed to be partially or fully disabled as defined under the publicly managed social security scheme.

Benefit structure

Mandatory pension funds: A disabled member may choose to receive the accumulated capital in the individual account as a lump sum or transfer it to the publicly managed social security scheme to increase the benefit from that scheme. In the latter case, the disabled member receives a full disability pension instead of the 75% disability pension that is paid if the capital is not transferred. The amount of pension from the publicly managed scheme does not depend on the amount of capital transferred.

Protection of Rights

Protection of Assets

Mandatory pension funds: Pension funds are independent legal entities and the pension fund assets are thus completely separate from the founder of the pension fund.

Fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

Mandatory pension funds: There are no specific regulations concerning funding and solvency.

A minimum required rate of return applies (see section Asset management) and the Hungarian Financial Supervisory Authority (HFSA) determines an expected return band each year. In practice, the minimum rate of return has been 20% of the official return index of long-term government bonds. If the actual return exceeds 200% of the long-term government bond return, the excess amount must be credited to a reserve (which is also continuously credited from monthly contributions). If the fund does not reach the lower limit of the band, it must use the reserve to credit the amounts necessary to reach the minimum rate within the band to the individual accounts.

Until 30 June 2002, the asset valuation had to be carried out quarterly, based on market values. After that date, the asset valuation is carried out daily.

If the pension fund does not entrust an external organization with the provision of pension benefits, it must establish an "operational reserve" of HUF 100 million.

Specific legal requirements apply to pension funds' accounting, actuarial methods, reporting, financial planning, service computation and the use of reserves.

If a pension fund provides annuities itself, internal rules must be established concerning annuities covering all matters necessary for the computation of annuities (procedure and formulas, mortality table, technical interest rates, cost factors, etc.). In calculating annuities, unisex mortality rates must be used. The internal rules on annuities must be countersigned by the pension fund's actuary.

Pension funds must report to the HFSA regularly (annually and quarterly) and whenever the situation (e.g. in case of merger or acquisition) or the HFSA demands it.

A quarterly report must be sent to the HFSA within 45 days of the end of each quarter and must include:

- The profit and loss statement;
- The investment and liquidity report;
- A presentation of membership changes.

An annual report must be sent to the HFSA by the end of May and must include:

- The balance sheet;
- The profit and loss statement;
- The business (operations) report.

An independent certified auditor must examine all reports, balances and financial plans and provide an opinion on such reports.

The statement of investment policy must be published in a national newspaper by 30 June of each year and sent to the HFSA within 15 days thereafter.

Whistleblowing

Mandatory pension funds: If the auditor of a pension fund knows that the assets or reserves are expected to decrease significantly, they must notify the board of directors, request the board of directors to convene the general assembly and notify the Hungarian Financial Supervisory Authority (HFSA).

If the general assembly is not convened by the board of directors within 8 days, the auditor must initiate the convocation of the assembly. If the general assembly fails to pass the necessary resolutions, the auditor must notify the HFSA and the county court of territorial jurisdiction.

Standards for service providers

Mandatory pension funds: The auditor of a pension fund must be independent and certified by the Hungarian Financial Supervisory Authority (HFSA). In order to be deemed independent with regard to a pension fund, the auditor must not be:

- A founder or a member of the fund;
- A member of the board of directors or the supervisory committee of the fund;
- The auditor of the fund's founder or a senior employee of the founder;
- The auditor of the external asset manager, the custodian or other service provider of the fund;
- A close relative of any person fulfilling these

aforementioned criteria.

Auditors have 4 years after their certification by the HFSA to comply with these requirements.

A fund may appoint an auditor for a maximum of 3 years and the appointment must not be extended. The same auditor must not work for more than three funds at the same time.

The actuary of a pension fund must fulfil the following suitability requirements:

- Recognized degree from a university or a finance or accounting college;
- Five years experience in the area of insurance or private pensions;
- No conviction for any civil offence.

Other service providers appointed to carry out administrative or actuarial tasks must be engaged in such activities on a commercial basis and must be registered with the HFSA.

Fees

Mandatory pension funds: The pension fund must cover its administrative expenses from members' regular contributions in accordance with the pension fund's rules. Out of the percentage of membership fee, the pension fund is only allowed to deduct expenses related to the establishment or abolishment of membership, (with a maximum established by Law). However, there are no minimum or maximum limits on asset management and custodians' fees.

The Hungarian Financial Supervisory Authority (HFSA) does not have the authority to approve the fees agreed and contracted between the service provider and the pension fund. The HFSA can only supervise whether the pension fund follows the authorized types of expenses and the maximum fee limits.

Winding up / Merger and acquisition

Mandatory pension funds: In the case of liquidation of a pension fund a liquidator must be appointed and the following measures implemented:

- Decisions can only be taken by the liquidator;
- New members cannot be admitted;
- Payments underway must be suspended;
- Contributions can only be collected by the Guarantee Fund (see section Protection of Rights, Bankruptcy: insolvency insurance / compensation fund).

At the start of the liquidation procedure, the assets belonging to the pension fund must be transferred immediately to the liquidator. These assets must be handled separately, and can be used to fulfil other liabilities only after the fulfilment in respect of members and survivors.

Funds may merge if the general meetings of the funds approve the merger. In the case of an acquisition, the acquiring fund is the legal successor of all rights and obligations of the fund that ceases to exist. In the case of consolidation, the merging funds cease to exist and a new fund is the legal successor of all rights and obligations of the merged funds. The successor fund must file a statement with the Hungarian Financial Supervisory Authority declaring that it satisfies the conditions for an operating license (see section Institutional framework). The successor fund must continue to perform any payment obligations even before it has been granted the operating license.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory pension funds: Membership of the Guarantee Fund (GF) is mandatory for all pension funds. The GF is a statutory body financed by mandatory quarterly contributions from all pension funds ranging from 0.3% to 0.5% of the contribution paid by the pension fund members. The rate is currently 0.35%.

The GF is responsible for the protection of the accumulated individual capital and the benefits in the case of liquidation of a pension fund. The guarantee to beneficiaries covers their total benefit amount, while the guarantee to contributing members is limited to the capital accumulated before the start of the liquidation process.

The GF must at least once a year calculate an actuarial estimate regarding its liabilities.

It must also represent pension fund members eligible for damages in arbitration or liquidation proceedings.

Disclosure of information / Individual action

Mandatory pension funds: The pension fund must annually disclose the following information in the Financial Gazette:

- The starting date of the fund's operation;
- The names and titles of the fund's officials;
- The balance sheet of the fund indicating the changes compared with the previous year;
- The number of members;
- The fund's revenues from contributions and other sources;
- The value of services provided by the fund and changes in that value;
- The fund's operational costs;
- Main indicators of the fund's investment performance;
- The name of the fund's asset manager;
- Penalties imposed by the Hungarian Financial Supervisory Authority (HFSA), if any, and the causes of these;
- All other indicators that ensure the comparability of pension funds' performances.

The balance sheet and the profit and loss statement must be published annually in a national daily paper within 30 days of approval by the general meeting and not later than 30 June. The investment policy statement must be published by the same date.

The fund must publish on its website important information related to its business operations, and its annual report by 30 June of the following year.

Pension fund members must be notified annually (and upon request at any time) of the accumulated amount in their individual accounts. The information must explain the respective sources of the capital (contributions, investment income) and the fees deducted to cover operational and asset management expenses.

The HFSA operates a claims office to deal with claims of pension fund members against pension funds. Pension fund members may submit a claim to this office or take legal actions at the county court.

Other measures

Mandatory pension funds: None.

Tax Treatment

Taxation of member contributions

Mandatory pension funds: A member's taxable income is reduced by 25% of the amount of contributions paid by on the member's behalf, or the amount paid by a member other than a self-employed person on behalf of another member, on the basis of an agreement for the payment of contributions based on the provisions of the Law.

30% of voluntary contributions paid by a member (not including any voluntary contributions paid by the employer) may be deducted from a member's taxable income.

Taxation of employer contributions

Mandatory pension funds: Employers are not required to contribute.

Taxation of investment income

Mandatory pension funds: Tax-exempt.

Taxation of benefits

Mandatory pension funds: Tax-exempt.

Regulatory and Supervisory Authorities

Hungarian Financial Supervisory Authority (HFSA): The HFSA is an integrated supervisory body that supervises the entire financial sector, e.g. banks, pension funds, insurance companies, investment companies, financial institutions. It is responsible for licensing and supervising pension funds and may require reports from pension fund directors at any time.

Its main functions and powers are:

- To authorize all financial service providers;
- To keep the records required by law and control the information system of financial service providers;
- To regularly monitor and evaluate compliance of financial service providers with legal requirements;
- To examine, analyse and evaluate the prudent operation of financial service providers;
- To investigate, where appropriate and necessary, suspected business malpractice and to take enforcement action.

The HFSA has its own budget and is financed by fees paid by supervised institutions. It is under the responsibility of the Ministry of Finance.

Pénzügyi Szervezetek Állami Felügyelete
Kristina krt. 39
1013 Budapest
Hungary

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Guarantee Fund (GF): The GF is a legal entity with its registered office in Budapest. The GF is mainly responsible for:

- the protection of the members' accumulated capital and benefits (see section Protection of Rights, Bankruptcy: Insolvency Insurance / Compensation Fund);
- the analysis of the investment performance of funds in connection with the required rate of return (see section Asset Management) and the availability of provisions to cover pension payment benefits;

The GF is managed by a Board of Directors and is supervised by Hungarian Financial Supervisory Authority.

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Iceland

Exchange rate: USD 1.00 equals
63.14 icelandic kronur (ISK)

Regulatory Framework

1998: Act 129 on Pension Rights Insurance and the Operation of Pension Funds; defines the entities that are allowed to operate as pension funds and to receive mandatory contributions, determines minimum pension rights, general requirements for pension funds regarding size, risk, internal auditing and funding, establishes guidelines for, and limits on, the funds' investment policies and creates the Financial Supervisory Authority (*Fjármálaeftirlitid*-FSA) to supervise pension funds' solvency and compliance with legal requirements.

1991: Act 27 on the Annual Accounts and Audit of Pension Funds; defines standards for annual accounts and auditing of pension funds.

The starting point for the development of occupational pension schemes was the General Wage Agreement of 1969 between employers' federations and labour unions that established fully funded occupational pension schemes from the beginning of the 1970s. Membership of occupational pension schemes was made compulsory for employees in 1974, and this obligation was extended to the self-employed in 1984.

Types of Schemes

Mandatory private pension schemes may be implemented either through open pension funds (in which case membership is not based on union affiliation) or closed pension funds (in which case membership is based on union affiliation). The legal rules applicable to closed and open funds are generally the same.

Pension schemes are usually funded, but those covering state and municipal employees and banking sector employees are guaranteed by employers.

All schemes are defined benefit and must provide coverage for the risks of old age, disability and death in line with the minimum benefits prescribed by law.

Membership of pension funds is usually based on union affiliation. If no collective bargaining agreement covers an occupational field or if the specific terms of employment are not based on a collective agreement (e.g. in the case of managers), the person may select a pension fund.

All pension funds that receive mandatory contributions have some form of risk sharing between members achieved mainly by pooling the fund assets for investment.

Voluntary additional contributions may be paid to mandatory private pension schemes and are accumulated separately in individual accounts. Pension funds are not subject to any additional regulations when they administer voluntary additional contributions, but must obtain confirmation from the Minister of Finance that the fund's statutes applying to these individual accounts are in compliance with legal requirements. The Minister seeks a statement from the Financial Supervisory Authority (FSA) before issuing the confirmation.

Institutional Framework

Mandatory pension funds: Mandatory private pension funds are nonprofit independent legal entities and must not undertake any other business than providing protection against the risks of old age, death and disability.

Pension funds must obtain an operating license from the Minister of Finance who must, before granting the license, ensure that funds offer the legally specified minimum mandatory benefits. The application must:

- Be made in writing;
- Be accompanied by the fund's statutes;
- Contain the information and data that the Minister may require.

The Minister of Finance issues an operating license to pension funds provided that they meet certain governance conditions, mainly:

- A board of directors must be appointed;
- A certified public accountant and an insurance actuary must be appointed;
- The statutes of the pension fund must be in compliance with legal requirements.

A pension fund must have at least 800 contributing members.

The statutes of a pension fund must, among other things, regulate the following issues connected to the governance of the fund:

- Annual meeting: method of announcement, matters that can be submitted, holding of voting rights and method of voting;
- Board of directors: role of the board of directors, number of members, terms of membership and selection process;
- Method of preparing changes to the fund's statutes.

The main decision making body of a pension fund is the annual general meeting. The fund's board of directors must hold the annual general meeting by the end of each year. The meeting must be announced in a reliable manner as defined in the statutes. All fund members may attend it and have both the right to speak and to propose a motion. The report of the board of directors, the annual accounts and the actuarial study must be presented at the annual general meeting.

In open pension funds all members have the right to participate in the election of the members of the board of directors and vote for changes in the fund's statutes. In closed funds, board members are generally appointed or elected by the respective labour unions and employers' organizations, and fund members' representatives vote for changes in the fund's statutes at the annual general meeting. In a few closed funds, however, fund members still have voting rights at the annual general meeting.

The board of directors is responsible for the management of the contribution and benefit administration and the operation of the fund in accordance with legal requirements and the fund's statutes, and must:

- Hire a managing director or contract with a managing company;
- Hire an internal audit manager or negotiate with an independent controller to administer the internal control of the fund;
- Formulate the fund's investment policy;
- Set rules regarding information provided by the manager to the board;
- Set procedures regarding securities transaction of the pension fund, its board members and employees;
- Decide who represents the fund on a board of another institution or company, unless otherwise provided for by law;
- Have an actuarial assessment of the fund's statutes carried out.

Members of a pension fund's board of directors must be competent to manage their own finances and must not, during the previous 5 years, have been convicted of an offence connected with a commercial activity punishable under the Criminal Code or Act on limited liability companies, private limited liability companies, bookkeeping, annual accounts, bankruptcy or public levies. Members of the board must be residents of Iceland or another member state of the European Economic Area. These requirements also apply to the managing director.

The managing director/managing company is responsible for the daily operation of the fund and must follow directives from the fund's board. Unusual or major allocations of assets can only be made with an authorization from the fund's board of directors. Further responsibilities may be described in the fund's statutes.

An internal audit manager or independent controller must provide internal control for a pension fund through:

- Supervising that the registration of contributions and pensions is according to legal requirements and statutes of the fund;
- Ascertaining that pension rights are calculated according to the law and the fund's statutes;
- Making proposals to the board of directors about the organization of internal control and carrying out special assessments of the effectiveness of internal control;
- Ensuring that fees for transactions of the fund's

assets are charged within normal time limits;
- Supervising that the fund's investment policy is enforced and that the return on assets is normal;
- Supervising that contributions and other disposable funds are allocated according to legal requirements and the fund's statutes.

Coverage

Covered population

Mandatory pension funds: Membership of a private pension fund is mandatory for private- and public-sector employees and the self-employed.

Enforcement of affiliation

Mandatory pension funds: If persons are not covered by a collective agreement and do not choose a fund for membership, they are affiliated to the General Pension and Insurance Fund run by the state.

The Internal Revenue Directorate is responsible for ensuring that contributions are paid for all covered individuals.

Pension funds must not refuse an application for membership for reasons of health, age, marital status, family size or gender.

Financing / Investment

Sources of funds

Member contributions

Mandatory pension funds: Employees contribute at least 4% of salary defined as all types of wages or compensation for work that are subject to income tax, with the exception of benefits in kind.

Self-employed persons contribute at least 10% of income.

Employer contributions

Mandatory pension funds: Employers contribute at least 6% of salary defined as all types of wages or compensation paid that are subject to income tax, with the exception of benefits in kind.

Other sources of funds

Mandatory pension funds: None.

Methods of Financing

Mandatory pension funds: Funded, except pension funds that are guaranteed by central or local governments or banks.

Full funding is achieved if the divergence between the present value of assets and liabilities is not more than 10% according to an actuarial study.

Asset Management

Mandatory pension funds: The asset management is either done internally or contracted to a management company. In the former case, pension funds must have in their service an employee having sufficient education and professional experience to manage the fund assets.

Pension funds must have some form of risk sharing between members which is achieved through pooling the assets of a pension fund for investment.

The investment policies of the funds must be announced in advance and must aim at achieving the best return-risk composition that is available at any time.

Of total assets invested:

- A maximum of 50% may be in equities;
- A maximum of 50% may be in municipality bonds;
- A maximum of 50% may be in bonds issued by banks;
- A maximum of 50% may be in other bonds;
- A maximum of 10% may be in unlisted securities if they are issued by entities within OECD countries. Unlisted equities must be fully transferable and the annual statements of the issuing company must be public;
- A maximum of 10% may be in a single entity.

The foreign exchange risk is limited to 50% of assets. Foreign currency exposure of more than 50% must be hedged.

No ceiling on investment of assets in mortgage bonds

applies, but their loan-to-value ratio must not exceed 65% in general and 35% in the case of specialized commercial property.

Pension funds may own a maximum of 15% of the stock of a single firm and a maximum of 25% of the shares of any mutual or equity fund.

Benefit provisions

Preservation, portability, transferability

Mandatory pension funds: In the case of closed pension funds, pension rights are only portable if members are staying in the same occupation while switching jobs and are still covered by the same collective agreement. Otherwise pension rights must be deferred.

Pension funds must through a legally required communication agreement between pension funds ensure that fund members neither lose nor benefit from having pension rights in more than one fund.

Pension rights of members of open funds are fully portable.

Retirement Benefits

Benefit qualifying conditions

Mandatory pension funds: Retirement age is 67 for private-sector employees and 65 for public-sector employees.

Members must have the option to defer or advance the commencement of their retirement by up to 5 years. The fund's statutes must make provision as to the effect which deferment or advancement have on the retirement benefit.

Withdrawal of funds before retirement

Mandatory pension funds: Not permitted.

Benefit structure / formula

Mandatory pension funds: Defined benefit.

No individual accounts exist (except for voluntary additional contributions) and the investment risk is borne collectively by the fund members.

A minimum retirement pension of at least 56% of lifetime average salary for a contribution period of 40 years (i.e. equivalent to 1.4% of average lifetime salary per contribution year) must be provided until death.

The pension may be set above the minimum defined by law. In most schemes, benefits accrue according to a point system whereby the number of points earned depends on the member's salary in a year relative to a reference salary. The level of contribution is then determined in order to match this guaranteed pension.

Even though the law defines a minimum pension, the benefit level provided varies significantly and is usually higher in employer guaranteed schemes. The benefit level ultimately depends on investment returns, which in turn vary between individual funds. If there is a mismatch between a pension fund's returns and the benefit level defined in the fund's statutes, the latter is usually adjusted.

Pension fund members may, on the basis of agreements between them and their spouse, decide that up to one-half of retirement pension rights accrue to the spouse or former spouse and result in a retirement pension paid directly to the spouse or former spouse.

Benefit adjustment

Mandatory pension funds: Benefits must at least be indexed to the consumer price index. A small number of pension funds index benefits to salaries.

Survivors

Benefit qualifying conditions

Mandatory pension funds: Spouses' and orphans' benefits are paid if the deceased member contributed for at least 24 of the 36 months prior to death or received a retirement or disability pension at the time of death.

Eligible spouse is legally defined as a man or a woman who was married to, or lived in recognized cohabitation or a consensual union with, the deceased member. A consensual union is defined as a union between a man and a woman who live together at a

common domicile, which has lasted without interval for at least 2 years and of which there is a binding legal obligation or the woman is pregnant.

Own retirement pension rights of the spouse do not reduce the survivor benefit.

Unless otherwise provided in the fund's statutes, the right to survivor pension ends after remarriage, the establishment of a union that may be equated with marriage or the entering in a recognized cohabitation.

Eligible orphans are defined as children below age 18.

Benefit structure

Mandatory pension funds: The full spouse's pension is at least 50% of the disability pension to which the deceased member would have been entitled in the case of full disability (see section Disability, Benefit structure).

Full spouse's pension must be paid for at least 24 months. If the spouse supports a child under age 18 who was previously supported by the deceased member, or if the spouse is at least 50% disabled and younger than age 67, the full spouse's pension is paid without time limit.

Full orphan's pension must be paid until age 18 and amounts to at least ISK 9,592 in the case of a deceased pension fund member and ISK 7,034 in the case of a deceased disability beneficiary. These amounts must be indexed to the consumer price index.

The fund's statutes may include further provisions concerning spouses' and orphans' pensions, and may in particular define a higher benefit level.

Disability

Benefit qualifying conditions

Mandatory pension funds: Pension fund members are entitled to disability pensions if they suffer loss in earnings capacity of 50% or more, have contributed for at least 2 years and have suffered loss of income due to the reduction in earnings capacity.

The exact assessment of disability must be laid down in the fund's statutes.

Benefit structure

Mandatory pension funds: No legal rules concerning a minimum benefit amount. The calculation of disability benefits must be laid down in the fund's statutes.

Disability benefits must be enhanced according to rules defined in the fund's statutes if the disabled member has contributed for at least three of the previous 4 years and for at least 6 months during the most recent 12 months period. Disability benefits may not be enhanced if the loss in earnings capacity can be traced to abuse of alcohol, pharmaceuticals or illicit drugs.

Protection of Rights

Protection of Assets

Mandatory pension funds: Pension funds are independent legal entities and fund assets are held separately from employers, unions and managing companies.

Financial and Technical Requirements / Reporting

Mandatory pension funds: All pension funds must be fully funded, except those that are guaranteed by central or local governments or banks. A pension fund is fully funded if the divergence between the present value of assets and liabilities is not more than 10%. If the estimated liabilities are 10% greater than the assets in a given year, or 5% greater for five consecutive years, pension funds must submit a plan to remedy the situation either by reducing benefits or increasing contributions and make the necessary changes to the statutes of the fund accordingly.

Each pension fund must have an annual actuarial study carried out by its actuary. A real interest rate of 3.5% must generally be used in calculating the present value of expected future pension payments in the actuarial study. Pension funds indexing their benefits to salaries must use a 2% real interest rate, since salaries are expected to rise more than prices in the long run. The actuary must immediately inform the

fund's board if the actuarial study reveals that the fund is not capable of fulfilling its obligations. The actuary must in this case submit suggestions for improvement to the board and notify the Financial Supervisory Authority (FSA).

The board of directors must further seek the opinion of an actuary on the effects of any changes to the statutes of the fund on its capability to pay pensions.

Pension funds must submit the following documents to the FSA:

- Audited annual accounts along with the report of the board immediately after its endorsement and not later than 4 months after the end of an accounting year;
- Annual information on investment policies for the upcoming year not later than 1 December;
- An actuarial study before 1 July of each year.

The audited annual accounts must consist of balance sheet, cash flow, statement of changes of net assets for payment of pensions and explanatory notes, and form a single document with the annual report of the board of directors. This report must, among other things, provide information on:

- The number of contributing members during the year;
- The number of employees and total amount of salaries, compensations or other payments to the fund's employees, board members and others working for the fund.

Whistleblowing

Mandatory pension funds: Auditors must notify the Financial Supervisory Authority (FSA) if they have reason to believe that regulations or rules pertaining to the operation of the fund have been violated or if the audit of the fund reveals substantial flaws in the:

- Operation of the pension fund;
- Internal control;
- Collection of contributions;
- Handling of financial resources, guarantees for lending or other matters which might weaken the financial position of the fund.

The actuary of a pension fund must report to the FSA if the actuarial study reveals that the fund is not capable of fulfilling its obligations. The actuary must also notify the FSA of potential measures to improve the situation.

Standards for service providers

Mandatory pension funds: The actuarial study must be executed by an insurance actuary or other person that has been acknowledged by the Financial Supervisory Authority (FSA). An actuary of a pension fund cannot be a member of its board of directors, an employee of the fund or work for it apart from executing actuarial studies and providing related advice. The FSA must be notified when changes concerning the actuary of a pension fund occur.

The auditor of a pension fund must be a certified public accountant and must not be a member of its board of directors, an employee of the fund or work for it apart from doing auditing and internal control.

The independent controller (see section Institutional framework) must be a certified public accountant or other party recognized by the FSA.

Fees

Mandatory pension funds: No legal maximum or minimum limits on fees.

If the Financial Supervisory Authority (FSA) considers the fees of a pension fund to be excessive it may request the fund to decrease them within a specified period.

Information on fees must be included in the annual accounts of pension funds that are accessible to fund members (see section Protection of rights, Disclosure of information / individual action).

Winding up / Merger and acquisition

Mandatory pension funds: A pension fund may be wound up either by the Minister of Finance or voluntarily by its board of directors.

The Minister of Finance may, acting upon a proposal from the supervisory party (see section Supervisory and regulatory authorities), decide to wind up a

pension fund. The Minister must in this case appoint a three-member liquidation board to handle the winding up of the pension fund and/or the transfer of its activities to another pension fund. The liquidation board assumes all competencies of the board of directors. The liquidation board must decide whether the fund is to be wound up by merging it with another fund or by other means.

The board of directors may decide to voluntarily wind up a pension fund, whether by merger or other means, unless otherwise provided for in the fund's statutes. Such a decision to wind up a pension fund must be notified immediately to the Ministry of Finance and the Financial Supervisory Authority (FSA).

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory pension funds: There are no legal requirements concerning compulsory insurance against low performance or insolvency or concerning compensation funds.

Disclosure of information / Individual action

Mandatory pension funds: The following documents and information must be disclosed to pension fund members:

- An annual statement including information on contributions paid, earned and expected pension rights, the operation and financial position of the fund and any changes to the statutes;
- A half-yearly statement of contributions paid including a statement requiring fund members to immediately report to the fund if demonstrably collected contributions have not been received;
- The report of the board of directors, annual accounts, actuarial study, investment policy and proposals to amend the fund's statutes must be presented at the annual general meeting;
- A register must be kept of members who have paid contributions to the fund and members who have acquired rights to pension payments from the fund by means other than through payment of contributions. This register must include names and personal identification numbers, amount of contribution payments of each individual, the payment period and acquired rights, as well as items that can affect the pension right. Members must, upon request and by appropriate means, be provided with this information in regard to themselves;
- Upon request, reasons for a decision that has been made by a pension fund regarding a member of the fund must be provided in writing.

Fund members may refer complaints to the board of directors. If they refuse to accept the decision of the board, they can complain to an arbitration committee consisting of three persons, one nominated by the respective fund member, one by the respective pension fund and one by the Financial Supervisory Authority (FSA) or another party specified in the statutes of the respective fund.

The ruling of the arbitration committee is binding for both parties. The legal costs are divided between the pension fund and the pension fund member, however, the member never pays more than one-third of the cost.

Violations of Act 129/1997 (see section Regulatory framework) can lead to a criminal liability of the management of the pension fund. A pension fund member who believes that the pension fund's management is violating provisions of this Act can report such violation to the State Police Commissioner who then decides whether to proceed with a criminal case against the management.

Fund members may litigate against the fund or its management in civil proceedings or they can seek compensation as part of criminal liability proceedings.

Other measures

Mandatory pension funds: All changes to a pension fund's statutes must be announced to the Ministry of Finance and do not enter into effect until the Minister, after receiving a statement from the Financial Supervisory Authority (FSA), confirms their compliance with legal requirements and the fund's statutes.

Tax Treatment

Taxation of member contributions

Mandatory pension funds: Tax-deductible up to 8% of salary.

Taxation of employer contributions

Mandatory pension funds: Employer contributions can be charged as costs in the account of the company, and are tax-deductible without limit.

Taxation of investment income

Mandatory pension funds: Tax-exempt.

Taxation of benefits

Mandatory pension funds: Taxed.

Regulatory and Supervisory Authorities

Financial Supervisory Authority: Supervises pension funds' solvency and compliance with legal requirements.

The Financial Supervisory Authority (FSA) is involved in the licensing process of pension funds, as it gives a statement to the Ministry of Finance before operating licenses are issued.

Pension funds must give the FSA access to all documents and information which the latter considers necessary to fulfil its supervisory function. If the FSA believes that the activities of a pension fund are not in compliance with legal requirements or the statutes of the fund it can request the fund to rectify the situation within a specified period.

The Minister of Finance may, acting upon proposals of the FSA, appoint a supervisory party to a pension fund for a specified period if the fund:

- No longer satisfies the legal requirements of its operating license;
- Is no longer solvent in the assessment of the FSA;
- Violates legal requirements or its ratified statutes;
- Is not in compliance with demands made by the FSA.

The board of directors and the managing director of the pension fund are relieved of their duties during the period in which the supervisory party operates. The supervisory party must assume their rights and obligations in accordance with the detailed provisions of a formal statement of duties issued by the Minister of Finance.

If a supervisory party is appointed to a pension fund, a notice of the appointment must be published in the Legal Gazette and advertised in the mass media.

The FSA is a governmental authority appertaining to the Minister of Commerce. It has an independent budget funded by the parties subject to supervision. The supervisory fee is calculated as a fixed percentage of net assets, operating income or insurance premiums of the supervised parties, depending on the nature of their operation. A Consultation Committee of parties subject to supervision has been established to consult with the FSA.

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Minister of Finance: Grants the operating license to pension funds.

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Fax: (+354) 562 8280
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Directorate of Internal Revenue: Is responsible for ensuring that pension contributions are paid for each person covered by the system.

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Liechtenstein

Exchange rate: USD 1.00
equals 1.31 francs (CHF)

Regulatory Framework

1997: Decree on the Mandatory Occupational Provision for Unemployed Persons; provides for disability and survivor insurance of unemployed persons.

1988: Decree to the Law on Occupational Provision as amended on 20 December 2005; regulates asset management restrictions, minimum requirements for service providers and certain powers of the supervisory authority.

1987: Law on Occupational Provision as amended on 25 November 2005; regulates coverage and establishes minimum rules concerning old-age, disability and survivor benefits, defines requirements for pension institutions and provides for their supervision.

Types of Schemes

Employers must either establish an occupational pension plan for their employees or join a multi-employer plan established and offered by a financial institution. Occupational plans must be implemented through the establishment of pension institutions to which employers must affiliate all covered employees. Employees may not opt for another pension institution.

Plans may be defined benefit or defined contribution and must provide retirement, disability and survivor benefits.

Legislation provides for minimum contributions and benefits and the provisions of most occupational plans exceed the legal minimum.

Institutional Framework

Occupational plans: Employer-sponsored plans must be implemented through the establishment of closed pension institutions the membership of which is restricted to the covered employees of the sponsoring employer. Plans established by financial institutions must be implemented through the establishment of open pension institutions that are open to the covered employees of all employers that join the plan. Most large employers establish closed pension institutions whereas smaller employers usually join a plan implemented through an open pension institution.

Pension institutions are independent legal entities taking the legal form of foundations. The headquarters of pension institutions must be located in Liechtenstein.

Each pension institution must have internal statutes and regulations that must in particular define:

- Rights and duties of employers and members;
- Contribution rates;
- Benefit structure and formula;
- Method for the calculation of transfer payments to other pension institutions;
- Internal organization of the pension institution.

While the internal statutes and regulations must be submitted to the supervisory authority upon the establishment of a pension institution, no explicit authorization for the establishment or operation of a pension institution is required.

Pension institutions are governed by a management board that is responsible for decisions regarding the:

- Insurance of disability and survivor benefits and if this task is contracted out (see below), the choice of the insurance company;
- Establishment of, and changes to, the internal statutes and regulations;
- Financing of benefits;
- Investment of assets.

Employers and employees must be represented in equal numbers on the management board of both open and closed pension institutions. If an equal

representation of employers and employees in an open institution is not possible due to the structure, the supervisory authority can accept other forms of representation. Pension institutions must define the election procedure and rules in their regulations. Employers may voluntarily reduce the number of their representatives. Employee representatives must be elected by, and among, the members of the respective pension institution.

If employers pay the total administrative costs of a pension institution, they may appoint the chairperson of the management board. The pension institution rules the procedure in case of equality of votes. The unanimous vote of all employee representatives constitutes a veto in the case of decisions on changes to the internal statutes and regulations of a pension institution.

Pension institutions manage the contribution and benefit administration.

Pension institutions may contract the insurance of disability and survivor benefits to a licensed insurance company. If the pension institution insures disability and survivor benefits in-house, it must obtain a certificate from a pension insurance expert.

The government must appoint an insurance company to insure unemployed persons for disability and survivor benefits. One-half of the insurance premium is paid by the Unemployment Insurance Fund.

Coverage

Covered population

Occupational plans: All public- and private-sector employers must affiliate employees with annual salary of CHF 19,350 or more to a pension institution. Coverage is mandatory from age 23 for retirement benefits if the employment contract exceeds 3 months, and from age 17 for disability and survivor benefits without regard to the length of the employment contract.

Employees who are not covered by law may join the pension institution of their employer on a voluntary basis. Self-employed persons may voluntarily join the pension institution of their employees or any pension institution established by a financial institution. Unemployed persons are covered for disability and survivor benefits.

If due to a member's health condition the risk of death or disability is increased, the insurance coverage for disability and survivor benefits exceeding the legal minimum can be reduced by a maximum of 50%. The reduction must be lowered after each year of insurance by at least one tenth and full coverage must therefore be provided after 10 years of insurance.

Enforcement of affiliation

Occupational plans: Employers must affiliate covered employees to a closed pension institution that they have established or to an open pension institution established by a financial institution. Sanctions are applied if employers do not comply with this requirement.

Financing / Investment

Sources of funds

Occupational plans: The salary on which contributions must be paid (known as covered salary) must be defined in the pension institution's regulations and must be at least between CHF 6,450 and CHF 77,400 a year.

For employees that are covered for retirement, disability and survivor benefits, the total employer and employee contribution must be at least 8% of covered salary. The contribution for employees who are covered for disability and survivor benefits must equal the insurance premiums necessary to insure the legal minimum benefits (see sections Survivors and Disability).

In practice, many occupational pension plans define contribution rates and levels of covered salary that exceed the legal minimum requirements.

The disability and survivor insurance premiums for unemployed persons are determined by law.

Member contributions

Occupational plans: Employees pay a maximum of 50% of the total contribution.

Unemployed persons pay 50% of the disability and survivor insurance premium.

Employer contributions

Occupational plans: Employers pay at least 50% of the total contribution.

Employer contributions are paid globally for all covered employees and a higher share of an employer's total contribution may be credited to its older employees than to its younger employees provided that at least 60% of the contribution made on behalf of an employee is credited to this employee.

Other sources of funds

Occupational plans: 50% of the disability and survivor insurance premium for unemployed persons is paid by the Unemployment Insurance Fund.

Methods of Financing

Occupational plans: Funded.

Adjustments of benefits in payment can be financed on a pay-as-you-go basis.

Asset Management

Occupational plans: Assets are managed by the pension institution and may only be invested in:

- Cash deposits;
- Bonds;
- Property and land;
- Property societies;
- Equities;
- Derivatives;
- Investment funds;
- Alternative investments.

Of total assets invested:

- 100% may be in bonds settled in a fixed amount and bonds issued in the European Economic Area or Switzerland, with a maximum of 15% per issuer if the issuer is not the federal or a local government, a bank or an insurance company;
- A maximum of 100% may be in cash;
- A maximum of 75% may be in mortgage bonds on property;
- A maximum of 80% may be in mortgage bonds on property and equities;
- A maximum of 50% may be in bonds issued outside the European Economic Area or Switzerland, with a maximum of 5% per issuer;
- A maximum of 50% may be in equities issued outside the European Economic Area or Switzerland;
- A maximum of 50% may be in equities issued in the European Economic Area or Switzerland, with a maximum of 10% per issuer;
- A maximum of 50% may be in property in the European Economic Area or Switzerland and property societies of which at least 50% of the capital consists of property in the European Economic Area and Switzerland;
- A maximum of 40% may be in EURO with a maximum of 5% per issuer;
- A maximum of 30% may be in foreign currencies with a maximum of 5% per issuer;
- A maximum of 5% may be in alternative investments.

Investments in a sponsoring employer are not permissible without approval of the supervisory authority.

The pension institution may in exceptional cases deviate from asset investment restrictions if special circumstances justify such a deviation and the rights of the members are not endangered. In this case, the pension institution must justify the deviation in the documents submitted annually to the supervisory authority (see section Financial and technical requirements / reporting, Protection of rights).

Benefit provisions

Preservation, portability, transferability

Occupational plans: Employer contributions financing the legal minimum benefits and all employee contributions vest immediately. If the pension institution provides for retirement benefits

above the legal minimum, 20% of the employer contributions to the benefits exceeding the legal minimum vest after 5 years of membership. This percentage must increase by 4% each year, so that full vesting of employer contributions must occur after 25 years.

Upon terminating employment before retirement, disability or death, members are entitled to a transfer amount equal to the cash value of their vested contributions or benefits.

This transfer amount is generally paid to the pension institution of the new employer. Members may, however, receive the transfer amount as a cash lump sum if:

- The vested benefit accrual is less than the contributions paid for the insured person for 1 year;
- They become self-employed;
- They permanently leave Liechtenstein and Switzerland, unless they leave for a country in the European Economic Area in which insurance for the actuarial risks of retirement, death and disability is mandatory.

In the case of defined contribution plans, the transfer amount equals the accumulated assets consisting of the vested employer and employee contributions plus interest.

In the case of defined benefit plans, the transfer amount equals the capital which, according to actuarial calculations, would be necessary to buy from the same pension institution the vested benefits accrued by the member at the time of termination of employment (i.e. the current value of accrued benefits).

Any premiums paid for disability and survivor insurance are not part of the transfer amount.

Retirement Benefits

Benefit qualifying conditions

Occupational plans: The retirement age is 64 for both men and women. The regulations of a pension institution may provide for full or partial early retirement from age 60 for members who are eligible for a retirement benefit under the publicly managed social security scheme.

Withdrawal of funds before retirement

Occupational plans: Not permitted.

Benefit structure / formula

Occupational plans: Defined benefit or defined contribution.

The benefit formula must be defined in the pension institution's regulations.

A minimum retirement benefit must be provided based on the capital accumulated by means of the legal minimum contributions and the annuity rate of the pension institution. The annuity rate is not legally prescribed but must be defined in the pension institution's regulations.

Benefits are generally paid as pensions for life, but the pension institution's regulations may additionally, or as the only method of benefit payment, provide for a lump sum to be paid at retirement. If the pension institution only provides lump-sum benefits, the lump sum must equal 100% of the cash value of the member's vested rights. If the pension institution allows members to choose between a pension and a lump sum, the latter must equal at least 90% of the cash value of the member's vested rights and members must make their choice at least 3 years before retirement.

Benefit adjustment

Occupational plans: No legal rules.

Pension institutions decide on benefit adjustments based on their financial situation.

Survivors

Benefit qualifying conditions

Occupational plans: Survivor benefits are paid to the deceased member's spouse and to orphans under age 18 (25 if in education, no age limit if disabled).

Benefit structure

Occupational plans: Survivor benefits must be defined in the pension institution's regulations. In case

of death before retirement age, benefits must at least equal 18% of covered salary for the spouse (lifelong pension) and 6% of covered salary for each orphan. In case of death after retirement, benefits at least equal 60% of the retirement pension for the spouse and 20% of the retirement pension for each orphan.

Survivor benefits are generally paid as pensions, but the pension institution's regulations may additionally, or as the only method of benefit payment, provide for lump-sum benefits. If the pension institution only provides lump-sum benefits, the lump sum must equal 100% of the cash value of the survivor pension right. If the pension institution allows eligible survivors to choose between a pension and a lump sum, the latter must equal at least 90% of the cash value of the survivor pension right.

If due to a member's health condition the risk of death is increased, the insurance coverage for survivor benefits which exceed the legal minimum can be reduced by a maximum of 50%. The reduction must be lowered after each year of insurance by at least one tenth to provide full coverage after 10 years of insurance.

Disability

Benefit qualifying conditions

Occupational plans: Disability benefits are paid to members who become disabled before attaining the retirement age. The degree of disability is defined through an assessment of the relative loss of income caused by the disability. This assessment is done by the pension institution.

Benefit structure

Occupational plans: Disability benefits must be defined in the pension institution's regulations, but full disability benefit must equal at least 30% of covered salary and is paid until the age at which the member would have retired. This benefit may be reduced proportionally in the case of partial disability.

Accrual of retirement benefits payable from retirement age must continue during the receipt of disability benefits.

A supplementary child benefit equal to 6% of covered salary per child is paid to disabled members for children under age 18 (25 if in education, no age limit if disabled).

Disability benefits are generally paid as pensions, but the pension institution's regulations may additionally, or as the only method of benefit payment, provide for lump-sum benefits. If the pension institution only provides lump-sum benefits, the lump sum must equal 100% of the cash value of the disability pension right. If the pension institution allows disabled members to choose between a pension and a lump sum, the latter must equal at least 90% of the cash value of the disability pension right.

If due to a member's health condition the risk of disability is increased, the insurance coverage for disability benefits which exceed the legal minimum can be reduced by a maximum of 50%. The reduction must be lowered after each year of insurance by at least one tenth to provide full coverage after 10 years of insurance.

Protection of Rights

Protection of Assets

Occupational plans: Pension institutions are independent legal entities and hold assets completely separate from the assets of sponsoring employers or financial institutions.

Financial and Technical Requirements / Reporting

Occupational plans: Pension institutions must have their accounts audited and their asset management examined at least once a year by an auditor. The auditor's review must focus especially on the bookkeeping, accounting, financial statements and asset valuation.

If a pension institution insures disability and survivor benefits in-house, it must be examined at least every 3 years by a pension insurance expert to confirm that the internal statutes and regulations are in compliance with legal requirements.

The pension insurance expert's report must be submitted to the supervisory agency as and when it is due.

Furthermore, the pension insurance expert has to confirm in an annual interim report that the financial situation of the pension institution has not declined.

In the case of actuarial deficits, pension institutions must, in cooperation with a pension insurance expert, prepare a plan to restore a financially safe condition. The plan must be submitted to, and approved by, the supervisory authority.

The pension institution must submit the following documents to the supervisory authority within 6 months of the end of each financial year:

- A list of the names of the members of the pension institution's management board, separated by employer and employee representatives;
- Annual accounts;
- A statement of assets;
- An activity report;
- The auditor's report;
- The interim report of the pension insurance expert.

Whistleblowing

Occupational plans: Auditors and pension insurance experts must immediately inform the supervisory authority if they detect that the financial situation of a pension institution requires remedial action or if they become aware of violations of legal requirements.

Auditors must include a note in their report (see section Protection of rights, Financial and technical requirements / Reporting) if:

- The assets of a pension institution are not sufficiently secure;
- They suspect violations of legal requirements.

Pension insurance experts must especially indicate in their report (see section Protection of rights, Financial and technical requirements / Reporting) if:

- The financial security of a pension institution is endangered;
- They suspect violations of legal requirements.

Standards for service providers

Occupational plans: Auditors and pension insurance experts must be independent from the members of the pension institution's management board and must not be subject to directives from such members.

Auditors must hold a license issued by the government.

Pension insurance experts must have the Swiss certificate of pension insurance experts or similar expertise and experience.

Fees

Occupational plans: No legal limits on fees.

Administrative costs are not covered by regular employer and member contributions. Employers must pay at least 50% of the administrative costs.

Winding up / Merger and acquisition

Occupational plans: Pension institutions must define in their regulations the conditions and proceedings in case of a partial liquidation and submit them to the supervisory authority. In case of total liquidation, the supervisory authority monitors the entire procedure and approves the distribution plan.

Bankruptcy: Insolvency Insurance / Compensation Fund

Occupational plans: Pension institutions must pay contributions to a safety fund. This safety fund guarantees the legal minimum benefits and benefits exceeding the legal minimum up to a certain upper limit of pension institutions which have become insolvent.

Disclosure of information / Individual action

Occupational plans: Each pension institution must provide its members with information at least once a year on its activities, annual accounts, balance sheet and asset management.

Members must be provided with a benefit statement at least every year.

Other measures

Occupational plans: None.

Tax Treatment

Taxation of member contributions

Occupational plans: Tax-deductible.

Taxation of employer contributions

Occupational plans: Tax-deductible.

Taxation of investment income

Occupational plans: Tax-exempt.

Taxation of benefits

Occupational plans: Taxed.

Regulatory and Supervisory Authorities

The Financial Market Authority: Supervises and regulates pension institutions and ensures their compliance with legal requirements.

The supervisory authority may with regard to pension institutions:

- Examine their annual accounts;
- Examine their asset management and request modifications if necessary;
- Control the compliance of benefit payments with legal requirements;
- Examine their internal statutes and regulations and changes thereof.

The Financial Market Authority may request any action from a pension institution that it deems appropriate to ensure compliance with legal requirements.

Financial Market Authority
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P.O. Box 684
9490 Vaduz
Principality of Liechtenstein

Tel.: (+423) 236 73 77
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Internet: www.fma-li.li

Macedonia

ExExchange rate: USD 1.00
equals 51.94 denars (MKD)

Regulatory Framework

2002: Law on Mandatory Fully Funded Pension Insurance; regulates the establishment, operation and winding up of pension companies and pension funds, defines asset management rules and provides for a supervisory and regulatory system with regard to all entities involved in the administration of the mandatory private pension scheme.

2000: Law on Modifications and Amendments to the Pension and Disability Insurance Law; establishes a mixed system of mandatory old-age provision consisting of a publicly managed social security scheme and a mandatory private pension scheme.

Types of Schemes

All covered persons must become a member of the mandatory private pension scheme through joining an open pension fund.

The mandatory private pension scheme is defined contribution and assets are accumulated in individual accounts.

Covered persons may join any open pension fund through entering into a membership contract with the pension company administering the fund without influence of their employer.

Additional voluntary contributions are not permitted.

Institutional Framework

Open pension funds: Open pension funds must be open-ended investment funds established and administered by licensed joint-stock companies known as pension companies. The sole business aim of pension companies must be to establish and administer pension funds.

In order to establish a pension company, the founders must obtain a license from the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS).

A public tender for license and the corresponding selection process consisting of two steps was organized by the Agency in 2004. During the first stage, applicants for licenses submitted an application to the MAPAS, which then drew up a short list of applicants. The applications were accompanied by documentation showing that:

- Minimum capital requirements are fulfilled (see below);
- Requirements for founders are satisfied;
- The proposed members of the management and supervisory board fulfil the applicable legal requirements (see below);
- The interests of members would be adequately protected;
- Satisfactory arrangements for ensuring proper financial accounting and auditing have been made;
- The administration of the pension company and its pension fund will be in compliance with sound and prudent business practice.

During the second stage, the MAPAS invited each short-listed applicant to submit a bid along with a business plan and details of all fees to be charged by the pension company. The selection of the two applicants to whom licenses were granted was at this stage based solely on the fees to be charged as a percentage of monthly contributions.

In April 2005, the two applicants with the lowest fees were granted licenses, valid for ten years, for pension fund management. The two pension companies manage one pension fund each.

The pension companies were incorporated within 3 months after having been granted licenses and were registered in the Commercial Register.

On establishment, pension companies must have a minimum share capital of EUR 1.5 million in MKD. For each EUR 100 million of assets managed by the pension company, the share capital must be increased

by EUR 1 million in MKD. The share capital must be fully paid-up in order for the pension company to be registered.

A pension company must always have a paid-up capital of not less than 50% of the required share capital and it must notify the MAPAS if its paid-up capital falls below the prescribed level.

Pension companies are administered by a management board consisting of at least five members and are internally supervised by a supervisory board consisting of at least three members.

Members of the management and the supervisory board must:

- Have a university degree;
- Have at least 5 years professional experience in fields related to the operation of the pension company (law, accountancy, insurance, asset management, etc.);
- Not be a member of the management or supervisory board of:

— Another pension company;
— A foreign asset manager appointed by the company (see section Asset management);
— The custodian (see section Asset management).

During the first 10 years of operation of the mandatory private pension scheme, each licensed pension company may establish only one open pension fund.

Pension companies must obtain the approval of the MAPAS for the establishment and for the by-laws of the pension fund. The by-laws must contain the:

- Basic principles of investment;
- Procedure for deductions of administrative charges from pension fund assets;
- Details on the fund's accounting system;
- Rules concerning disclosure of information (see section Protection of rights, Disclosure of information / individual action).

Pension companies manage the benefit administration if the programmed withdrawal option is chosen. Annuities are provided by insurance companies (see section Retirement benefits, Benefit structure / formula).

The Pension and Disability Insurance Fund collects contributions and transfers them to the pension companies to credit to members' individual accounts.

The contribution payments started in February 2006.

Coverage

Covered population

Open pension funds: Private- and public-sector employees, civil servants and self-employed persons who are covered by the publicly managed social security scheme for the first time on or after 1 January 2003 must participate in the mixed system of provision for old age consisting of the (reduced) publicly managed social security scheme and the mandatory private pension scheme.

All persons covered by the publicly managed social security scheme before 1 January 2003 may voluntarily choose to join the mixed system.

Enrolment in the mandatory private pension scheme began on 20 September 2005 for all eligible persons in employment at April 2005. For new entrants the period for entering into a membership contract with one of the two pension funds is 3 months from the date of first employment.

Enforcement of affiliation

Open pension funds: Covered persons who do not comply with the obligation to join a pension fund within 3 months of becoming eligible are affiliated to a pension fund by the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS). The MAPAS allocates such contributors based on the proportion of the number of contributors to the total value of assets in each pension fund.

Pension companies must accept any application for membership from covered persons.

Pension companies may only conclude membership agreements with covered persons through sales agents. Sales agents must be registered with the MAPAS and must:

- Be citizens of the Republic of Macedonia;

- Not be prohibited to work in the area of economics, finance, insurance, banking or law;
- Have completed at least secondary education;
- Have passed an examination set by the MAPAS.

Financing / Investment

Sources of funds

Member contributions

Open pension funds: Employees do not contribute.

Self-employed persons contribute 7.42% of income.

Employer contributions

Open pension funds: Employers contribute 7.42% of payroll.

Other sources of funds

Open pension funds: None.

Methods of Financing

Open pension funds: Funded in individual accounts.

Asset Management

Open pension funds: During the first 10 years of operation of the mandatory private pension scheme, each licensed pension company may establish only one open pension fund.

Pension companies must manage domestic assets in-house but may contract the management of foreign assets to a foreign asset manager with a registered office in the Republic of Macedonia. Foreign asset managers must be licensed in their countries to undertake asset management.

Fund assets may only be invested in the following types of securities. Of total assets invested:

- A maximum of 80% may be in bonds, bills and other securities issued or guaranteed by the Republic of Macedonia or the National Bank of the Republic of Macedonia;
- A maximum of 60% may be in interest bearing bank deposits, certificates of deposit, mortgage-backed securities and other securities issued or guaranteed by banks that are licensed by the National Bank of Macedonia;
- A maximum of 40% may be in bonds and other securities issued by Macedonian joint-stock companies approved by the Macedonian Securities and Exchange Commission and traded on organized and supervised security markets in the Republic of Macedonia, and in commercial notes issued by first-class Macedonian joint-stock companies;
- A maximum of 30% may be in shares issued with the approval of the Securities and Exchange Commission and traded on organized and supervised security markets in the Republic of Macedonia;
- A maximum of 20% may be in participation units and shares of Macedonian investment funds authorized to operate pursuant to the Law on Investment Funds;
- A maximum of 20% may be in securities issued outside the Republic of Macedonia;
- A maximum of 20% may be in bonds, bills and other securities issued or authorized by foreign governments or central banks of an EU country, Japan or the United States of America;
- A maximum of 5% may be in bonds, bills and other fixed income securities of private foreign companies or banks of an EU country, Japan or the United States of America;
- A maximum of 5% may be in shares and securities traded on the primary stock exchange of an EU country, Japan or the United States of America, and in participation units, shares and other securities of mutual and investment funds based and authorized in an EU country, Japan or the United States of America that invest primarily in quoted equities in these countries.

Pension funds must not be invested in:

- Bonds, shares and other securities that are either unlisted or not publicly traded;
- Assets that are not capable of alienation by law;
- Physical assets that are not frequently quoted on organized markets and for which valuation is uncertain (e.g. antiques or works of art);
- Real estate or any interest in real estate except mortgage-backed securities and indirect

investment through mutual or investment funds;
- Bonds, shares and other securities issued by:
— A shareholder of the pension company;
— The custodian;
— Any person who is an affiliated person as defined by law of a shareholder of the pension company and/or the custodian;
- Futures, options, forward contracts and other financial derivatives;
- Such other assets specified by the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS), after consultation with the Securities and Exchange Commission, in which the investment would be contrary to the interests of the pension fund members.

Assets must be kept by a custodian. In the first 5 years of operation of the mandatory private pension scheme the custodian of the pension funds' assets must be the National Bank of the Republic of Macedonia.

Benefit provisions

Preservation, portability, transferability

Open pension funds: Members may change their pension fund any time after the first 2 years of operation of the mandatory private pension scheme. The 2-year period may be waived in the cases mentioned below.

Pension companies may charge a fee for the transfer of accumulated capital to another pension fund to those persons who are members of the fund for less than 24 months, except in cases where:

- Other fees charged by the pension company have been increased during the preceding 6 months;
- The approval to establish and manage a pension fund has been withdrawn;
- The marketing activities of the pension company have been contrary to legal requirements.

If pension fund members terminate employment before retirement, they remain members of their fund and their capital is kept in the individual account and invested until retirement age.

Retirement Benefits

Benefit qualifying conditions

Open pension funds: The retirement age is the same as for old-age benefits under the publicly managed social security scheme (i.e. age 64 for men and age 61.5 for women). The latter will increase to age 62 in 2007.

Withdrawal of funds before retirement

Open pension funds: Not permitted.

Benefit structure / formula

Open pension funds: Defined contribution.

Members who are eligible for a pension under the publicly managed social security scheme having more than 15 years of insurance in the scheme may choose between:

- Purchasing a life annuity from an insurance company authorized to provide annuities;
- Receiving programmed withdrawals in which case the pension company continues to manage the individual account.

Retirees who are not eligible for a pension under the publicly managed social security scheme (i.e. those with less than 15 years of insurance in the scheme) must purchase a life annuity if its value is at least 40% of the minimum pension of the Republic of Macedonia. If the accumulated capital is not sufficient to buy such an annuity, the member may receive the entire accumulated capital as a lump sum.

The minimum pension is provided under the publicly managed social security scheme. It is 41% of the minimum wage for men with more than 35 years (30 years for women) of insurance; 38% for men with 26 to 35 years (21 to 30 years for women); and 35% for men with 25 years or less (20 years or less for women).

Regulations governing the calculation of programmed withdrawals, the types of annuities and the authorization of annuity providers are currently being drafted.

Benefit adjustment

Open pension funds: No legal rules.

Survivors

Benefit qualifying conditions

Open pension funds: Eligible survivors are dependents entitled to survivor pensions from the publicly managed social security scheme.

Benefit structure

Open pension funds: The capital accumulated in the deceased member's individual account must be transferred to the publicly managed social security scheme if there are survivors eligible for a survivor pension from the publicly managed social security scheme.

If the accumulated capital is more than is needed to finance the survivor benefits from the publicly managed social security scheme, the eligible survivor may instead opt to use the capital to either:

- Purchase an annuity from an insurance company authorized to provide annuities; or
- Receive programmed withdrawals in which case the pension company continues to manage the individual account.

Regulations governing the calculation of the capital needed to finance benefits under the publicly managed social security scheme, the calculation of programmed withdrawals, the types of annuities and the authorization of annuity providers have not yet been passed.

Disability

Benefit qualifying conditions

Open pension funds: Members are eligible if they are entitled to a disability pension from the publicly managed social security scheme.

Benefit structure

Open pension funds: The capital accumulated in the disabled member's individual account must be transferred to the publicly managed social security scheme if the member is eligible for disability benefits from the publicly managed social security scheme.

If the accumulated capital is more than is needed to finance the disability benefits from the publicly managed social security scheme, the disabled member may instead opt to use the capital to either:

- Purchase an annuity from an insurance company authorized to provide annuities; or
- Receive programmed withdrawals in which case the pension company continues to manage the individual account.

Regulations governing the calculation of the capital needed to finance benefits under the publicly managed social security scheme, the calculation of programmed withdrawals, the types of annuities and the authorization of annuity providers are currently being drafted.

Protection of Rights

Protection of Assets

Open pension funds: Pension companies must hold pension fund assets separately from their own assets.

Pension fund assets must be kept by a custodian. If the pension fund is invested in foreign assets, the custodian must appoint a sub-custodian to keep these assets.

In the first 5 years of operation of the mandatory private pension scheme the custodian of the pension funds assets is the National Bank of the Republic of Macedonia.

Financial and Technical Requirements / Reporting

Open pension funds: Each pension company must maintain a paid-up capital of at least 50% of the required share capital (see section Institutional framework) and must inform the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS) in cases where the paid-up capital falls below the required level.

Each pension company must submit annually the following reports to the MAPAS in respect of itself

and the pension fund it manages:

- Audited statements of assets and liabilities and of income and expenses;
- Audited balance sheet with profit and loss account.

In addition, each pension company must submit annually:

- Details of the acquisition and transfer of pension fund assets;
- Information on brokerage fees, custodial fees and commissions paid to sales agents;
- Details of the shareholders of the pension company;
- The names of, and remuneration paid to, the members of the supervisory and the management board;
- An information brochure to be published in a national newspaper (see subsection Disclosure of information);
- Information on new members and the total number of members.

Custodians must submit six-monthly activity reports to the MAPAS.

Whistleblowing

Open pension funds: Custodians must inform the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS) if they suspect any noncompliance by a pension company with legal requirements or the custody agreement, or if they detect any other action that is against the interests of pension fund members.

Standards for service providers

Open pension funds: During the first 5 years of the system's operations the National Bank of the Republic of Macedonia is the custodian of the pension funds' assets. Thereafter, the following criteria apply to custodians.

Custodians must be banks that:

- Hold a banking license issued by the National Bank of the Republic of Macedonia;
- Have a minimum capital of EUR 20 million in MKD;
- Must not own shares of the pension company managing the pension fund whose assets it keeps or of any company or person that is affiliated (e.g. under the same ownership) to the pension company;
- Must not have any employees or members of its management or supervisory board who are employees or members of the management or supervisory board of the pension company managing the pension fund whose assets it keeps or of any company or person that is affiliated (e.g. under the same ownership) to the pension company.

Sub-custodians of assets invested abroad must be:

- Banks holding a banking license issued in a foreign country;
- Licensed to act as a custodian of pension fund assets in countries where such a license exists.

Auditors must have good reputation and must be independent of the pension company, its shareholders, the foreign asset manager and the custodian. The same auditor may carry out a maximum of three successive annual audits for the same pension company.

Fees

Open pension funds: Pension companies may charge the following types of fees (the applicable amount must be regulated in the fund by-laws):

- A deduction of a specified percentage of the contributions (currently 8.5%. The maximum percentage for 10 years (until 2015) is 9.9%);
- A monthly deduction of 0.05% of the value of net assets of the pension fund (the monthly deduction may be reduced for persons that have been members of a fund for an extended period);
- A deduction from the capital accumulated in an individual account if a pension fund member who had been a member of the fund for less than 24 months requests a transfer payment to another pension fund.

A pension company must not increase the level of fees in the 10 years following the first contribution payment to its pension fund.

Winding up / Merger and acquisition

Open pension funds: Pension companies must not merge, split or reorganize in any other way and must not acquire shares of another pension company.

The approval to establish and manage a pension fund may be withdrawn by the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS) if the pension company requests it or in the case of a significant breach of legal requirements. In the latter case, the MAPAS must give the pension company the opportunity to rectify the breach in a specified period unless this would be contrary to the interests of members.

Where the MAPAS withdraws the approval to manage a pension fund, the pension company must continue to fulfil its obligations under the strict supervision of the ASFFP until a new pension company takes over the administration of the fund. If the rights of members are seriously endangered, the MAPAS may immediately take over the administration of the fund itself.

Fund assets must not be claimed or seized by, or on behalf of, creditors of the pension company.

Bankruptcy: Insolvency Insurance / Compensation Fund

Open pension funds: A pension company must compensate members from its own assets for any damages resulting from noncompliance with legal requirements unless the reasons for the noncompliance are outside the pension company's control.

A transfer from the state budget to a pension fund is made in the following circumstances:

- The assets of a pension fund are lost due to a criminal act involving fraud or theft (a loss in value due to investments that are contrary to legal requirements is not covered by this provision);
- The assets of the pension company managing the fund are not sufficient to compensate for the loss; and
- The Agency for the Supervision of Fully Funded Pension Insurance (MAPAS) recommends to the Minister of Finance that a payment should be made.

The transfer from the state budget is limited to 80% of any loss or shortfall.

There is no other guarantee or compensation fund.

Disclosure of information / Individual action

Open pension funds: Pension companies must provide their members free of charge at least six-monthly with information on the assets accumulated in their individual accounts and at least annually with information on the value and proportion of fund assets invested in different securities.

Each pension company must publish a brochure in a daily national newspaper by 31 March each year containing information on the:

- Members of its management and supervisory board, shareholders and the custodian;
- Basic investment principles;
- Fees charged to members;
- Number of members;
- Net asset value of the pension fund at the end of the previous year.

Current and former pension fund members may lodge a complaint with the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS) against a pension company or any other entity involved in the administration of their pension fund if they believe that their interests have been damaged due to noncompliance with legal requirements.

Other measures

Open pension funds: None.

Tax Treatment

Taxation of member contributions

Open pension funds: Employees do not contribute.

Regulations concerning the tax treatment of contributions of self-employed persons have not yet been issued.

Taxation of employer contributions

Open pension funds: Regulations concerning the tax treatment of employer contributions have not yet been issued.

Taxation of investment income

Open pension funds: Regulations concerning the exemption of investment income from tax have not yet been issued.

Taxation of benefits

Open pension funds: Regulations concerning the tax treatment of benefits have not yet been issued.

Regulatory and Supervisory Authorities

Agency for the Supervision of Fully Funded Pension Insurance (MAPAS): Regulates and supervises pension companies and their pension funds, custodians and the operations of foreign asset managers in the Republic of Macedonia. In addition, it has the following functions to:

- Administer the licensing process of pension companies (i.e. granting, withdrawing and cancelling pension company licenses);
- Promote the development of the mandatory private pension scheme;
- Create public awareness of the operation of the mandatory private pension scheme;
- Examine and monitor financial statements;
- Initiate legal proceedings against pension companies, custodians and foreign asset managers in the case of violation of legal requirements;
- Keep and maintain a register of sales agents.

In order to carry out its functions, the Agency for the Supervision of Fully Funded Pension Insurance (MAPAS) has the power to obtain any information and records from pension companies, custodians and foreign asset managers. The MAPAS may authorize a person to carry out an on-site inspection of a pension company, custodian or registered office of a foreign asset manager in the Republic of Macedonia to verify whether their activities are in compliance with legal requirements. The inspector must prepare a report and submit it to the MAPAS. If the inspector detects deficiencies, the MAPAS must request that these are rectified within a specified period. In the case of noncompliance with this request, the MAPAS may withdraw the approval to manage a pension fund.

The MAPAS is financed by a monthly fee levied on pension companies of a maximum of 2.5% (1.5% in 2006) of the total contributions made to pension funds in the preceding month. If this is not sufficient to cover the expenses of the MAPAS, the remainder is financed out of the state budget.

The Ministry of Labour and Social Policy oversees the MAPAS's operations and the MAPAS reports annually to the government, parliament and the public.

Agency for the Supervision of Fully Funded Pension Insurance (MAPAS)
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1000 Skopje
Macedonia
Tel.: (+389) 2 3224 229
Fax: (+389) 2 3217 573
Internet: www.mapas.gov.mk

Pension and Disability Insurance Fund of Macedonia: Administers the publicly managed social security scheme and collects contributions.

Pension and Disability Insurance Fund of Macedonia
12ta Udarna brigada 2
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Tel.: (+389) 2 3240 240
Fax: (+389) 2 3162 275
Internet: www.piom.com.mk

Norway

Exchange rate: USD 1.00
equals 6.75 kroner (NOK)

Regulatory Framework

2005: Mandatory Occupational Pensions Act; provides for the shift from voluntary to mandatory establishment of complementary occupational pension schemes. Provision of survivor and disability benefits remains voluntary.

2005: Insurance Act; regulates the authorization and operation of life insurance companies with certain paragraphs also applicable to pension funds, provides the legal basis for numerous regulations laid down by the Ministry of Finance that are applicable to both life insurance companies and pension funds (e.g. regulations concerning asset management). It also implements the provisions of the EU Institutions for Occupational Retirement Provision (IORP) Directive.

2000: Company Pension Scheme Act; regulates defined benefit and defined contribution insurance schemes, contains minimum rules concerning coverage, benefit qualifying conditions, vesting and protection of rights.

2000: Act on Defined Contribution Occupational Pensions; regulates defined contribution savings schemes, contains minimum rules concerning coverage, benefit qualifying conditions, vesting and protection of rights.

1956: Financial Supervision Act; provides for the supervision of financial institutions (including pension funds and insurance companies) by the Financial Supervisory Authority of Norway (*Kredittilsynet* - FSAN), defines its powers and requires auditors to notify the FSAN of specific events.

Types of Schemes

Employers must establish, and their employees must join, occupational pension schemes that can be defined benefit or defined contribution schemes. Defined benefit schemes must provide an annual pension of at least the minimum level of expected benefits defined by law for defined contribution schemes.

Employers that must establish an occupational pension scheme are those that have:

- at least two employees, including persons with ownership interest, who both have working hours and wages that represent 75% or more of a full time position;
- at least one employee, excluding persons with ownership interest, who has working hours and wages that represent 75% or more of a full time position; or
- employees, who each have working hours and wages that represent 20% or more of a full time position, and together carry out work representing at least two person-labour years.

Employers who have a pension scheme in accordance with legislation or collective agreements that apply to state or local authority employees are not covered by the Mandatory Occupational Pensions Act.

The deadline for establishing an occupational pension scheme that satisfies the minimum legal requirements is 31 December 2006, but the scheme must come into effect for employees from 1 July 2006.

All schemes: All schemes that comply with the applicable legal requirements receive favourable tax treatment. If the tax authorities become aware that a scheme is not in compliance with legal requirements, the right to favourable tax treatment is lost and the authorities may request reimbursement of tax rebates granted in previous years.

Employers may sponsor both a defined benefit and a defined contribution scheme at the same time provided that this does not violate the principles of nondiscrimination and proportionality (see section Benefit provisions, Benefit structure / formula) and that each covered employee is allowed to choose which scheme to join.

Employers may also establish occupational pension schemes that do not comply with the applicable legal requirements and thus do not receive favourable tax treatment. Typically, such schemes are established to supplement complying occupational pension schemes in order to provide for benefits not allowed under the latter, e.g. early retirement benefits or benefits for earnings above the social security ceiling. These supplementary schemes are not covered further in the following sections.

Defined benefit schemes: Employers may establish defined benefit schemes that must be implemented either through the establishment of a pension fund or through an insurance contract with a life insurance company.

Defined contribution insurance schemes: Employers may establish defined contribution insurance schemes that must be implemented through an insurance contract with a life insurance company.

Defined contribution savings schemes: Employers may establish defined contribution savings schemes that must be implemented through the establishment of a pension fund or a contract with a life insurance company, bank or mutual fund.

All defined contribution schemes: The main differences between defined contribution insurance and defined contribution savings schemes are:

- If a member dies before retirement, in an insurance scheme the member's accumulated capital is distributed among the other scheme members while in a saving schemes the accumulated capital is paid to eligible survivors (see section Survivors);
- Insurance schemes may provide for disability benefits while savings schemes do not cover disability;
- Insurance schemes must be implemented through contracts with life insurance companies while savings schemes may also be implemented through the establishment of pension funds or contracts with banks and mutual funds.

Institutional Framework

All schemes: Employers with 15 or more employees must establish a scheme advisory board consisting of at least three members of whom at least one must be chosen by the scheme members. The advisory board must be consulted about the scheme administration, investment of scheme assets and before any changes to the scheme rules. It has a strictly advisory role and no decision making power.

Defined benefit schemes and defined contribution savings schemes may be implemented through the establishment of pension funds. Pension funds are independent legal entities separate from the sponsoring employers and must be registered with the Financial Supervisory Authority of Norway (FSAN). This registration is subject to the approval of the scheme rules.

Pension funds must be governed by a board of directors consisting of at least four members of whom at least two must be elected by the scheme members. The board of directors must appoint a manager to carry out the daily administration of the fund.

Life insurance companies, banks and mutual funds licensed by the FSAN in accordance with applicable legislation.

The institution through which a scheme is implemented (i.e. the pension fund, life insurance company, bank or mutual fund) is responsible for the administration of the contributions and benefits.

Coverage

Covered population

All schemes: Private-sector employees.

Discrimination between men and women is prohibited, but different mortality tables may be used. All employees older than age 20 must be covered, but newly hired employees with less than 10 years service before attaining retirement age can be excluded if this is established as a general scheme rule.

Part-time workers must be covered if they work at

least 20% of full-time working hours and seasonal workers must be covered if they work at least 20% of full-year employment.

All central and local government employees are covered by occupational pension schemes. However, these public-sector schemes are not regulated by the laws applicable to schemes covering private-sector employees and are not covered further in the following sections.

Self-employed persons are not covered by occupational pension schemes and cannot establish profession-wide schemes.

Enforcement of affiliation

All schemes: Employers must affiliate eligible employees to a pension scheme. Sanctions are applied if employers do not comply with this requirement.

Financing / Investment

Sources of funds

Member contributions

All schemes: Members usually do not contribute.

If members of defined benefit schemes are required to contribute, the contribution rate must not exceed 4% of total salary.

It can be agreed between employer(s) and employees that employees must make a contribution or pay a premium to the pension scheme in addition to the employer contribution.

Employer contributions

All schemes: The minimum employer contribution is 2% of salary between 1 and 12 times the base amount. The base amount is NOK 60,699 as of 1 January 2006.

Employers may pay higher contributions for female employees in order to compensate for their higher average life expectancy.

Contributions for part-time employees must be proportional to the contribution that would be paid were the employee working full-time.

Defined benefit schemes: Employer contributions must be calculated annually on the basis of the capital required to secure the pensions that members are earning for service in the year.

Other sources of funds

All schemes: None.

Methods of Financing

All schemes: Funded.

Asset Management

All schemes: Of total assets covering technical provisions invested, a maximum of 35% may be in equities.

Loans to the sponsoring employer are only permitted if they are secured by collateral, and must not exceed 20% of total assets covering technical provisions. Investment in shares issued by the sponsoring employer is prohibited.

Defined benefit schemes: In insured schemes, employers can choose to decide on the composition of the portfolio themselves or leave the asset management to the insurance companies. In the former case the employer bears the risk of funding shortfalls due to poor investment returns and must make additional contributions to restore full funding. No employer has yet chosen this option.

Where the scheme is implemented through a pension fund, the assets may be managed in-house by the pension fund or the asset management may be contracted to an insurance company or an external asset manager that must be a credit institution or public limited company authorized under the Securities Trading Act.

All defined contribution schemes: If the scheme is implemented through an insurance company, bank or mutual fund, employers may choose one of the following options for the management of scheme assets:

- Collective management of the scheme assets by the insurance company, bank or mutual fund;
- Collective management with the employer

deciding on the composition of the portfolio;
- Individual accounts in which case the investment portfolio is determined by each individual member.

Under the first two options employers may decide to apply only part of the returns to increase members' individual account balances and withold the remainder to pay for future contributions. Currently a maximum of 50% of investment returns can be withheld by the employer to pay future contributions.

Insurance companies managing scheme assets as part of the company's general portfolio provide a rate of return guarantee (usually 3% a year). No rate of return guarantees are provided in other cases.

If the scheme is implemented through a pension fund, the assets may be managed in-house by the pension fund or the asset management may be contracted to an insurance company or to an external asset manager that must be a credit institution or public limited company authorized under the Securities Trading Act.

Benefit provisions

Preservation, portability, transferability

All schemes: Upon terminating employment before retirement, members may opt to defer their rights in which case they may continue paying contributions to individual contracts (see All defined contribution schemes below). If the new employer sponsors an occupational pension scheme which provide for transfers-in, members may transfer their rights to the new employer's scheme.

Defined benefit schemes: If members opt for deferred benefits, their accrued rights are converted into individual with-profits (participating) contracts with an insurance company (i.e. contracts which receive dividends based on the performance of the insurance company) that is still based on collective mortality tables.

If a scheme is implemented through an insurance contract, the with-profits (participating) contract specifying the deferred rights is issued by the insurance company.

If a scheme is implemented through a pension fund, the cash value of the accrued rights must be used to buy a with-profits (participating) contract from an insurance company.

All defined contribution schemes: If members opt for deferred benefits, their accumulated capital is converted into individual contracts. The contract is issued by the same institution through which the occupational scheme of the former employer is implemented.

Retirement Benefits

Benefit qualifying conditions

All schemes: Retirement age is 67 for both men and women (same as under the social security scheme).

Early retirement is not permitted, except for certain occupational groups (e.g. pilots or nurses) which have a lower retirement age under the social security scheme.

Retirement may be deferred until age 70.

Withdrawal of funds before retirement

All schemes: Information not available.

Benefit structure / formula

Defined benefit schemes: Pension rights accrued in any given year must be proportional to the ratio between the years of actual membership and the total number of years required to obtain full benefits.

Occupational schemes are integrated with the social security scheme based on the principle of proportionality: the total replacement rate resulting from social security and occupational scheme benefits combined cannot be higher for high-income than for low-income employees. The total replacement rate must not exceed maximum values that are fixed separately for different salary bands:

Salary bands in NOK	Maximum total replacement rate
under 364,194	100%
364,194-728,388	70%
more than 728,38	80%

The replacement rate in the social security scheme is higher for low-income than for high-income employees, hence participation in occupational pension schemes has little significance for low-income employees.

Most defined benefit schemes aim at a total replacement rate of between 58% and 70% of final salary.

Either final salary or average salary may be used in the calculation of occupational schemes. Final salary may be defined as basic salary up to the social security ceiling with or without overtime and supplements, and average salary as the last 2 or 3 years before retirement. Salary levels for earlier years may only be taken into account to prevent a potential reduction in working hours due to flexible retirement or reduced end of career salary levels resulting in lower pensions. The minimum accrual period for full pensions may be 30 years and the maximum may be 40 years.

Pensions are paid by the administering pension fund or insurance company.

Pension rights for part-time employees are generally based on the corresponding full-time salary divided by the ratio of part-time to full-time employment.

All defined contribution schemes: The accumulated capital must be converted into an annuity that distributes pensions over a minimum of 10 years. Each retiree must choose between a life long annuity and an annuity payable for a fixed period. The annuity may be provided by the institution administering the scheme, except if a retiree of a scheme implemented through a bank or a mutual fund opts for an annuity in the form of an insurance contract, then the annuity must be bought from an insurance company.

If the annuity is not based on an insurance contract the accumulated capital remains in the institution administering the scheme.

All schemes: Lump-sum benefits are prohibited.

Benefit adjustment

All schemes: Indexation of benefits depends on investment returns.

Survivors

Benefit qualifying conditions

Defined contribution insurance schemes: No provision of survivor benefits if the member dies before retirement.

All other schemes: Provision of survivor benefits is voluntary. Qualifying conditions where benefits are provided are laid down in the pension scheme rules.

Benefit structure

Defined benefit schemes: If provided, survivor benefits are a percentage of the deceased member's projected or actual old-age pension and are paid to the spouse (including same sex spouse and unmarried cohabitant if cohabited for five years at date of death).

Defined contribution insurance schemes: If a member dies before retirement, the deceased member's accumulated capital is redistributed among the other scheme members. If a member dies while receiving an annuity, the survivor benefit depends on the type of annuity.

Defined contribution savings schemes: If a member dies before retirement, the accumulated capital is paid to eligible survivors. It must be used first to buy an insured annuity guaranteeing yearly payments of up to NOK 60,699 for each orphan up to age 21. If there are no eligible orphans or if there is excess capital available, a fixed term annuity (i.e. for 10 years) must be bought for the spouse (including same sex spouse and unmarried cohabitant if cohabited for five years).

If a retired member dies while in receipt of a pension paid by the institution administering the scheme, the above-mentioned capital is that remaining in the individual account at the date of death.

If a retired member dies while receiving an annuity based on an insurance contract, the survivor benefit depends on the type of annuity.

Disability

Benefit qualifying conditions

Defined contribution saving schemes: No provision of disability benefits.

All other schemes: Provision of disability benefits is voluntary but most schemes do provide them. Where provision is made all members must be covered for degrees of disability of 20% or more. Any other qualifying conditions are laid down in the pension scheme rules.

Benefit structure

Defined benefit schemes: If the scheme provides disability benefits, the disability pension is equal to the disabled member's projected old-age pension.

Defined contribution insurance schemes: The disability pension must equal the projected old-age annuity.

Defined contribution savings schemes: Disability benefits are not provided. The accumulated capital is paid as normal on retirement as an old-age benefit.

Protection of Rights

Protection of Assets

All schemes: Scheme assets must be held separately from the assets of the sponsoring employer.

Financial and Technical Requirements / Reporting

All schemes: Legal solvency standards apply to both life insurance companies and pension funds. For insurance companies and pension funds, the Financial Supervisory Authority of Norway (FSAN) sets a capital standard of 8% of the total of risk-weighted assets and off-balance sheet items. In addition, the capital of pension funds must exceed a threshold that is adjusted annually according to changes in the Consumer Price Index. Life insurance companies are subject to EU solvency rules.

All institutions administering pension schemes must appoint an auditor to audit the annual accounts, and an actuary. Audited accounts must be submitted to the FSAN.

Pension funds must submit annually to the FSAN:

- A standardized report prepared by the appointed actuary;
- A report proving compliance with the FSAN capital standard;
- Certain statistics on their operations.

The FSAN requires more comprehensive reports from insurance companies, banks and mutual funds.

Whistleblowing

All schemes: Auditors must report immediately to the Financial Supervisory Authority of Norway (FSAN) any circumstance concerning the institution to which they provide auditing services which comes to their knowledge and which may:

- Involve violation of legal requirements, if such violation may lead to the withdrawal of the institution's authorization;
- Harm the continued operation of the institution;
- Imply that the accounts will not be approved or that reservations to the accounts will be made.

Standards for service providers

All schemes: Individual auditors must be authorized by the Financial Supervisory Authority of Norway (FSAN) and must have:

- Approved training;
- Three years experience;
- Passed a practical examination;
- At least 105 hours in every 3 year period of continued professional education in courses approved by the FSAN;
- A security guaranteeing at least NOK 5 million for any liability.

Auditing firms must be majority owned by authorized individual auditors, and the majority of the members of the board of directors must be such auditors.

Actuaries must be approved by the FSAN.

Fees

All schemes: No legal rules.

Winding up / Merger and acquisition

All schemes: Detailed legal rules govern the conditions under which a scheme may be wound up and the allocation of scheme assets in this case.

Bankruptcy: Insolvency Insurance / Compensation Fund

All schemes: There is no requirement to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

All schemes: The sponsoring employer must provide information concerning the scheme to new scheme members.

Thereafter, the institution administering the scheme must provide detailed information annually to scheme members on their accrued rights or accumulated capital.

Members may go to court to have the sponsor's duty to establish the pension scheme determined, similarly its duty to pay the annual contributions to the pension scheme.

Other measures

All schemes: None.

Tax Treatment

Taxation of member contributions

All schemes: Employee contributions are deductible from general income which is the basis for the calculation of the flat-rate 28% general income tax.

Employee contributions are, however, not deductible from the so-called personal income which is the basis for the calculation of social security contributions and the personal progressive income tax.

Taxation of employer contributions

All schemes: Tax-deductible as business expenses, but employers pay social security contributions on their occupational scheme contributions at a maximum rate of 14.1%.

Employer contributions are not taxable as fringe benefits for employees.

Defined benefit schemes: Employers may overfund benefits at a rate of 50% of annual contributions each year, limited to a total overfunding of six times annual contributions.

Taxation of investment income

All schemes: Tax-exempt.

Taxation of benefits

All schemes: Taxed as both general and personal income.

Regulatory and Supervisory Authorities

Financial Supervisory Authority of Norway: Supervises insurance companies, pension funds, banks and mutual funds and ensures that sponsoring employers comply with legal requirements.

The instruments of supervision employed by the Financial Supervisory Authority of Norway (FSAN) include:

- Off-site supervision;
- On-site inspections;
- Enforcement of laws and regulations;
- Framing and simplification of rules.

The FSAN may require supervised entities to provide access at all times to their records, accounting information, documents etc. and to disclose any information that the FSAN may request.

The FSAN decides in cases of doubt whether an employer comes under the Mandatory Occupational Pensions Act or not.

The FSAN has the power to order any sponsor

failing to maintain a pension scheme in conformity with the legal requirements to rectify the unlawful circumstance by a specific deadline and to impose a cumulative fine on the sponsor to that end.

The FSAN is financed by levies on supervised entities.

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Exchange rate: USD 1.00
equals 3.25 zlotys (PLN)

Regulatory Framework

2003: Amendment to the Act on Organization and Operation of Pension Funds; modifies several aspects of the mandatory private pension scheme.

1999: Act on Organization and Operation of Pension Funds; requires open pension funds to be authorized and to be managed by a pension fund society; provides for limits on the investment of fund assets, a Guarantee Fund, a supervisory framework and for other measures aimed at protecting the rights of open pension fund members.

1998: Act on the Social Insurance System; reforms the social security pension system to provide mandatory private pension schemes as a complement to a publicly managed notional defined contribution pension scheme; defines the categories of the population covered by the social security pension system.

1998: Act on Pensions from the Social Insurance Fund; regulates the calculation of pensions under the publicly managed notional defined contribution scheme and the administration of the notional accounts.

Types of Schemes

All persons covered by the mixed system of old-age protection consisting of a publicly managed notional defined contribution scheme and mandatory private pension scheme must become members of a private open pension fund.

The mandatory private pension scheme is a defined contribution scheme and contributions accumulate in individual accounts.

Covered persons may choose which open pension fund to join.

Institutional Framework

Open pension funds: Open pension funds are independent legal entities created and managed by a joint-stock company, which is called a pension fund society.

The creation of a pension fund society requires permission from the Insurance and Pension Funds Supervisory Commission (KNUiFE). The application must include:

- The articles of association of the pension fund society;
- A list of founders, stating whether they are related and describing the relationships among them;
- A list of members of the society's statutory bodies with a summary of their professional qualifications;
- Documents proving that none of the members of the statutory bodies of the society has a criminal record;
- The society's organizational and financial plan for a period of 3 years.

KNUiFE must refuse to give permission to create the pension fund society if:

- The articles of association of the pension fund society contain provisions which may put the security of the fund assets at risk or are otherwise prejudicial to interests of fund members;
- The pension fund society's organizational and financial plan fails to sufficiently protect the interests of fund members;
- Any shareholder is in arrears of taxes.

At its establishment, a pension fund society must have share capital equivalent to at least EUR 5 million in PLN, which must not be from a loan or credit. The pension fund society must at all times have share capital of at least one-half of this amount.

Purchase of shares of a pension fund society requires permission from KNUiFE. However, if the purchaser is an existing shareholder, permission from KNUiFE is only required if the purchase of additional shares results in an increase in voting rights. An entity must

not be a shareholder of more than one pension fund society.

The governing bodies of the pension fund society are the:

- Management board (which is also the management body for the open pension fund after its creation through the pension fund society);
- Supervisory board;
- General assembly.

Members of the management and supervisory board of the pension fund society must fulfil the following requirements:

- Have full legal capacity;
- Have not been sentenced by a court for any offence against property, credibility of documents, trade or the treasury;
- Have higher education.

At least two-thirds of the management board members must have a record of employment of 7 years or more and at least one-third must have higher education in law or in economics or be registered on the list of investment advisers.

Persons are ineligible for membership of the management board if they sit on a governing or a supervisory body of:

- A shareholder of the pension fund society;
- Another pension fund society;
- A custodian having the custody of an open pension fund's assets;
- An investment fund society or a shareholder of an investment fund society;
- A brokerage firm.

At least one-half of the supervisory board members must have higher education in law or economics and at least one-half of the members must neither be shareholders of the pension fund society nor sit on a governing or supervisory body of a shareholder of the pension fund society.

Each pension fund society may only create and manage one open pension fund and may not undertake any other business than that of creating and managing this fund. In order to create an open pension fund:

- The pension fund society's general meeting must adopt the fund's articles of association;
- The pension fund society must obtain permission from KNUiFE to create the open pension fund;
- The open pension fund must be entered in the register of open pension funds.

The fund's articles of association must include the following:

- The name of the fund;
- The pension fund society's share capital, its shareholders, and the numbers of shares held by individual shareholders;
- The types of costs, their maximum amount, manner and procedure for calculating and covering the costs incurred by the fund;
- The fund's investment rules and standards.

The pension fund society must include the following documents with the application to KNUiFE for permission to create an open pension fund:

- The fund's articles of association;
- The contract with the custodian;
- Personal data of employees of the society who have significant influence on the management of the fund's finances and a summary of their professional qualifications.

Within 2 months of receiving permission to create an open pension fund, the pension fund society must file an application with the registration court for the fund to be entered in the register of open pension funds. The following documents must be attached to this application:

- The permission to create the fund;
- The fund's articles of association;
- The articles of association of the pension fund society;
- A list of members of the society's management board.

Any modification to the articles of association of the pension fund society or the open pension fund or to the contract with the custodian requires permission from KNUiFE.

Upon a member's affiliation to an open pension fund, an individual account into which contributions are

paid must be opened for the member.

The Social Insurance Institution (ZUS) collects the total social security contribution for the mixed pension system and transfers a part of this to the open pension fund of which a contributor is a member. The remainder is credited to the contributor's notional account under the publicly managed notional defined contribution scheme.

Coverage

Covered population

Open pension funds: The mixed system of retirement protection consisting of a publicly managed notional defined contribution scheme and a mandatory private pension scheme covers employees and self-employed persons (excluding farmers) born after 31 December 1948. Employees and self-employed persons born before that date are not eligible to participate in the mixed system.

Employees and self-employed persons born between 1 January 1949 and 31 December 1968 were free to choose whether to become members of the mixed system (and accordingly to become members of an open pension fund) or to only contribute to the reformed publicly managed notional defined contribution scheme.

Employees and self-employed persons born after 31 December 1968 must be members of the mixed system and contribute to both the publicly managed notional defined contribution scheme and to the mandatory private pension scheme.

Enforcement of affiliation

Open pension funds: Open pension funds must accept all applications for membership from eligible persons.

Open pension funds may market pension funds themselves or through the following institutions:

- Domestic banks within the meaning of the Banking Law Act;
- Insurance undertakings;
- Brokerage houses;
- Insurance agents;
- The state public utility establishment (*Poczta Polska*).

The Insurance and Pension Funds Supervisory Commission (KNUiFE) administers a register of persons involved in the marketing of pensions and may remove persons from the register if they do not comply with legal requirements. Pensions may only be sold by persons who:

- Reside in Poland;
- Have no criminal record;
- Have full capacity to enter into legal transactions;
- Have at least secondary education.

Financing / Investment

Sources of funds

Member contributions

Open pension funds: Employees contribute 9.76% of gross earnings to the mixed system for retirement. 7.3% is transferred to their open pension fund and the remainder is credited to their notional account under the publicly managed notional defined contribution scheme.

Self-employed persons contribute 19.52% of insured income to the mixed system for retirement. 7.3% is transferred to their open pension fund and 12.22% is credited to their notional account under the publicly managed notional defined contribution scheme.

For employees, the maximum earnings for contribution purposes are 250% of national average monthly earnings. National average monthly earnings are PLN 2,464 as of September 2005.

For self-employed persons, the minimum insured income is 60% of national average monthly earnings.

Employer contributions

Open pension funds: There is no employers' contribution to the mandatory private pension scheme. Employers' contributions of 9.76% and 6.5% of payroll for retirement and for disability and survivor benefits, respectively, are paid to the publicly

managed notional defined contribution scheme.

Other sources of funds

Open pension funds: None.

Methods of Financing

Open pension funds: Funded in individual accounts.

Asset Management

Open pension funds: Each pension fund society may create and manage one open pension fund. The open pension fund management board (see section Institutional Framework) manages the investment of fund assets.

The fund may only invest in the following assets and the following investment restrictions apply:

- Bonds, bills and other securities issued by the Treasury or the National Bank of Poland;
- Bonds and other debt instruments representing the issuer's pecuniary obligation which are guaranteed or backed by the Treasury or the National Bank of Poland;
- Bank deposits and bank securities in domestic currency (up to a maximum of 5% of total assets in a single bank or a group of affiliated banks);
- Shares of companies, subscription rights, allotment certificates and convertible bonds listed on a stock exchange or quoted on a regulated over-the-counter-market or of those companies which otherwise have been admitted for public trading;
- National investment shares;
- Investment certificates of closed-end investment funds or hybrid investment funds (up to a maximum of 2% of total assets);
- Units sold by open-end investment funds (up to a maximum of 5% of total assets in units of one open-end investment fund and a maximum of 15% in different investment funds managed by a single investment fund society);
- Publicly traded bonds and other debt instruments issued by local government entities, their associations and the city of Warsaw;
- Fully secured bonds of issuers other than local government entities, their associations and the city of Warsaw;
- Bonds and other debt securities issued by listed companies.

The total value of the fund's investments in all securities of a single issuer or of two or more affiliated issuers must not exceed 5% of the fund assets.

Open pension funds may with permission of the Minister of Finance, invest assets outside Poland in securities listed on major stock exchanges of OECD countries or nonOECD countries as may be named by the Minister, and in treasury bonds and bills issued by the governments or central banks of these countries.

Investment in derivatives may be made only to limit the exchange rate risk of investments outside Poland.

Open pension funds must not invest assets in:

- Shares or other securities of the pension fund society managing the fund;
- Shares or other securities of a shareholder of the pension fund society managing the fund;
- Shares or other securities of partners of the pension fund society or shareholder of the pension fund society managing the fund.

The mandatory minimum rate of return for open pension funds is equal to either 50% of the weighted average rate of return of all open pension funds or that weighted average rate of return minus 4%, whichever is lower. The weighted average rate of return must be calculated for a 36-month period two times a year (i.e. March and September) according to the methodology established by the Insurance and Pension Funds Supervisory Commission (KNUiFE). The calculation method takes into account the return and market share of each pension fund. The weighted average rate of return must be published by the Insurance and Pension Funds Supervisory Commission (KNUiFE).

The maximum value of the average market share of a given open pension fund is limited to 15%. In the event that a given open pension fund's average market share is higher than 15%, it must be reduced to 15% and the average market share of the remaining open funds are increased proportionately.

An open pension fund is in deficit when its rate of

return for the 36-month period has fallen below the mandatory minimum rate of return.

Fund assets must be kept by a custodian.

Benefit provisions

Preservation, portability, transferability

Open pension funds: Persons may choose to join any open pension fund. Membership does not depend on the employer and the accumulated pension capital is completely portable.

Members are free to change their open pension fund at any time. If a member wishes to join another open pension fund the member must inform the former fund in writing. When the member joins a new fund, the former fund must transfer the accumulated capital including all investment returns to the new fund. Financial administration of the transfer is undertaken by the National Security Depositary, an independent joint-stock company. Transfer payments are made quarterly.

Open pension funds may charge a change fee to members in their first 2 years of membership. This fee is PLN 160 during the first year of membership and PLN 80 during the second year. After 2 years of membership, there is no change fee.

Retirement Benefits

Benefit qualifying conditions

Open pension funds: Retirement is simultaneous with the publicly managed notional defined contribution scheme. There is no mandatory retirement age, but there is a minimum retirement age of 60 for women and 65 for men. After attaining ages 60 or 65 respectively, members are free to decide when to retire.

Withdrawal of funds before retirement

Open pension funds: Not permitted, except in the case of disability.

Benefit structure / formula

Open pension funds: Defined contribution.

Members must buy life annuities at retirement. Arrangements for providing annuities and the type of annuities have not yet been specified in the law.

The following types of annuities are under consideration:

- Life annuity for the member only;
- Life annuity with payments guaranteed for at least 10 years;
- Joint and last survivor life annuity with at least 75% of the original amount payable to the surviving spouse.

The first benefits under the system will be payable from 2009.

Benefit adjustment

Open pension funds: Annuities must be indexed at least according to inflation.

Survivors

Benefit qualifying conditions

Open pension funds: Upon death before retirement and if the deceased's accumulated account balance was subject to community property, the spouse receives a transfer of one-half of the balance in the deceased's account to the spouse's account in an open pension fund. If the spouse does not have an account, the open pension fund must open one.

When entering into the contract with an open pension fund, the member may name one or more beneficiaries to receive the remaining capital not paid to the member's spouse. If the deceased member did not name a beneficiary, the account balance is paid in equal parts to the deceased member's closest relatives (the spouse and the children are primary beneficiaries and the parents and grandchildren secondary beneficiaries). The beneficiary may choose to receive the capital as a lump sum or by instalments spread over no more than 2 years.

Upon death after retirement, whether survivor benefits are payable or not depends on the type of annuity selected by the deceased member at retirement (see section Retirement benefits, Benefit structure / formula).

Benefit structure

Open pension funds: Regulations governing arrangements for providing annuities and the types of annuities have not yet been issued.

Disability

Benefit qualifying conditions

Open pension funds: Members are entitled to disability benefits if they are eligible for a disability pension under the publicly managed social security scheme.

Under the public scheme, a disability pension is payable for total disability (incapacity for any work) or partial disability (greatly impaired earning capacity or total incapacity for usual work) with 5 years of insurance coverage (1 to 4 years if younger than age 30) during the last 10 years. Noncontributory years must not exceed one-third of contributory years. Disability must begin during the insurance period or within 18 months of the cessation of contributions.

Benefit structure

Open pension funds: Regulations governing arrangements for providing annuities and the type of annuities have not yet been issued.

Protection of Rights

Protection of Assets

Open pension funds: Pension funds are independent legal entities and their assets are legally separate from the assets of the pension fund societies managing the funds.

Fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

Open pension funds: Pension fund societies must submit periodical reports and daily information on their performance and financial standing to the Insurance and Pension Funds Supervisory Commission (KNUiFE). They must in particular submit:

- Daily reports containing investment activity and financial standing: balance sheet, profit and loss account, portfolio, transactions and orders;
- Monthly reports on the respective percentage shares of different categories of investment instruments in the fund's investment portfolio;
- Biannual reports on the respective values of different investment instruments in the fund's investment portfolio and on their respective percentage shares in the fund assets, naming the issuer of each instrument;
- Yearly comprehensive reports on the structure of the fund investment portfolio, including investment instruments accounting for less than 1% of assets.

The yearly report must also be published in a national newspaper and delivered to a news agency that KNUiFE designates.

Pension fund societies must prepare an annual report for approval by KNUiFE.

Pension fund societies must use their own resources to establish a reserve for their open pension fund to offset deficits arising from investment returns below the mandatory minimum return (see section Asset management). The reserve must be between 0.3% and 0.4% of the fund's net assets. The reserve constitutes part of the fund's assets and must be converted into accounting units. If the reserve is insufficient to offset the deficit, pension fund societies must cover any deficiency with their own resources.

Whistleblowing

Open pension funds: Custodians must inform the Insurance and Pension Funds Supervisory Commission (KNUiFE) of any act or negligence by a fund which in the custodian's opinion contravenes the law or the fund's articles of association or as a result of which the fund members' interests are not duly taken care of.

Standards for service providers

Open pension funds: The custodian of open pension fund assets must be a bank which:

- Is a domestic bank as defined by the Banking Law Act;
- Has its own funds of at least the equivalent of EUR 100 million in PLN;
- Is not a lender or a creditor of the fund whose assets it holds or of the fund's managing society;
- Does not employ and does not have on its governing bodies persons who sit on the management board or supervisory board or are employees of the pension fund society of the fund whose assets it holds.

Fees

Open pension funds: Pension fund societies have three sources of income as follows:

- An up-front fee of a maximum of 7% of contributions (being gradually reduced up to 3.5% by 2014);
- A yearly management fee of up to 0.54% of net assets for small open pension funds, decreasing for larger funds;
- A yearly returns fee, which depends on the investment performance of the open pension fund, up to a maximum of 0.06% of net asset value (currently 0.03% on average);

The costs of purchase, sale or custody of fund assets are paid directly by the fund.

Charges may be the same in respect of members having equal records of membership, but may be lower for members with long membership.

Winding up / Merger and acquisition

Open pension funds: The Insurance and Pension Funds Supervisory Commission (KNUiFE) may revoke permission to create a pension fund society if a fund has conducted its business contrary to legal requirements or to the articles of association or in a manner prejudicial to the interests of fund members.

If permission to create a pension fund society has been withdrawn due to a deficit in the open pension fund (see section Protection of rights, Bankruptcy: insolvency insurance / compensation fund), the pension fund society with the highest rate of return has priority in taking over the management of the fund.

When an open pension fund is wound up, either because of liquidation or merger, its assets are transferred to the fund of the new pension fund society.

The take over of the management of a fund or the merger of two pension fund societies is subject to the permission of the KNUiFE.

Bankruptcy: Insolvency Insurance / Compensation Fund

Open pension funds: An open pension fund is considered to be in deficit where its rate of return for a specified period has fallen below the minimum rate of return (see section Asset management). If the reserve (see section Protection of rights, Financial and technical requirements / reporting) is insufficient to offset the deficit, the pension fund society must cover any deficiency with its own resources. If the pension fund society is not able to cover the deficit, its management board is obliged to file for bankruptcy in respect of that pension fund society.

Where a society is declared bankrupt or when liquidation proceedings have been initiated, the Insurance and Pension Funds Supervisory Commission (KNUiFE) must revoke permission to create the society.

If the bankruptcy of a pension fund society due to a deficit in the open pension fund is declared, its assets may only be used to satisfy the claims of the Guarantee Fund after the societies' liabilities to other creditors have been settled.

A Guarantee Fund is established to cover deficits of an open pension fund if the pension fund society is not able to do so and to compensate for any losses caused by the failure of a pension fund society to perform its fund management obligations if this results from circumstances beyond its control. The Guarantee Fund consists of:

- A base part, managed by the National Securities Depositary, financed by pension fund societies' contributions based on a percentage, which is the same for all funds, of the net assets of the fund

managed by that society. The value of the base part must not exceed 0.1% of the net asset value of all open pension funds unless the Guarantee Fund's liabilities to open pension funds exceed that amount;
- An additional part, comprising the reserve of each open pension fund (see section Financial and Technical Requirements / Reporting) which must be between 0.3% and 0.4% of the net assets of the open pension fund. These resources constitute a part of the funds' assets and must be converted into accounting units.

The Polish Treasury covers as guarantor any deficit which cannot be covered by the Guarantee Fund's resources.

Disclosure of information / Individual action

Open pension funds: At least once a year, open pension funds must publish their articles of association, information on their investment performance, and their approved annual report in a national daily newspaper.

At least every 12 months, open pension funds must send a written report to each member containing:

- The balance in the member's account;
- Dates of receipt of member contributions;
- Information on the fund's investment performance.

A fund member (or a former member if within 6 months of leaving the fund) may complain to the Insurance and Pension Funds Supervisory Commission (KNUiFE) about the fund if, in their opinion, the fund conducts its business unlawfully or in contravention to the fund's articles of association.

Other measures

Open pension funds: Pension fund societies are liable to fund members for any loss suffered through nonperformance by the pension fund society of its duties as the fund manager, except where nonperformance is due to circumstances for which the society is not responsible.

Tax Treatment

Taxation of member contributions

Open pension funds: Tax-deductible.

Taxation of employer contributions

Open pension funds: Tax-deductible.

Taxation of investment income

Open pension funds: Tax-exempt.

Taxation of benefits

Open pension funds: Taxable.

Regulatory and Supervisory Authorities

Ministry of Labour and Social Policy: Regulates both the publicly managed notional defined contribution scheme and the mandatory private pension scheme.

Ministry of Labour and Social Policy
ul. Nowogrodzka 1/3/5
00-513 Warsaw
Poland
Tel.: (+48) 22 661 10 00
Fax: (+48) 22 661 11 24
http://www.mps.gov.pl

Insurance and Pension Funds Supervisory Commission: Supervises pension fund societies and open funds and has, among others, the following powers to:

- Instruct the pension fund society to make available copies of the documents related to the business of the fund;
- Call on members of the society's management board and supervisory board and on employees of the society to supply such information or explanations as the Insurance and Pension Funds Supervisory Commission (KNUiFE) may demand;
- Authorize inspectors to enter the premises of the pension fund society and/or the custodian and

inspect books and documents, copy documents and demand information from members of the inspected party's governing bodies and employees.

The KNUiFE must authorize any modification to pension fund societies' and open pension funds' articles of association which it may refuse where a modification is unlawful or against fund members' interests.

The KNUiFE is financed by insurance companies and open pension funds.

Insurance and Pension Funds Supervisory Commission
ul. Niedzwiedzia 6E
02-737 Warsaw
Poland
Tel.: (+48) 22 548 72 40
Fax: (+48) 22 548 72 45
Internet: www.knuife.gov.pl

Romania

Exchange rate: USD 1.00
equals 3.11 new lei (ROL)

Regulatory Framework

2004: Act No. 411 on Privately Administered Pension Funds (amended in 2005 and 2007); regulates the establishment, organisation and functioning of the privately administered pension fund system and the organization and functioning of private pension fund administrators; also coordinates the activities of other entities operating in this field.

Types of Schemes

All covered persons must become members of the mandatory private pension system by signing an individual contract with a private mandatory pension fund. Pension funds have no legal capacity and are established and managed by private pension fund administrators (PPFAs). PPFAs may establish and manage only one mandatory private pension fund and any number of voluntary private pension funds. Members may only be a member of one mandatory private pension fund at any one time. Employers are not involved in the establishment of a pension fund.

Mandatory private pension funds are defined contribution with contributions accumulating in individual accounts.

The proposed implementation date of the mandatory private pension system is 1 January 2008.

Much of the information on mandatory private pension funds applies also to voluntary private pension funds but the latter are not specifically covered further in the following sections.

Institutional Framework

Mandatory pension funds: Mandatory private pension funds have no legal capacity. They are established and managed by private pension fund administrators (PPFAs) which are joint-stock companies with the sole aim of administering private pension funds and managing private pension benefits. PPFAs operate on the basis of nondiscriminatory access, equality and solidarity principles.

To administer private pension funds PPFAs must have a minimum capital of the equivalent of EUR 4,000,000 in ROL. PPFAs may administer only one mandatory pension fund and any number of voluntary private pension funds.

Companies wishing to become PPFAs must submit the administration contract, prospectus of the pension fund and proposed custody contract to the Private Pension Supervision Commission (*Comisia de Supraveghere a Sistemului de Pensii Private* - CSSPP).

The request for authorization to establish a PPFA must be accompanied by the following documents:

- Draft of establishment act;
- Proof that the founders have the financial resources to provide the required capital, and the origin of those resources;
- Criminal and fiscal records of founders;
- Documents comprising information on the founders' legal status, the possible quality of associated persons (i.e. those who influence the PPFA's decisions, members of the administration board or other managing or surveillance board of the PPFA and close relatives of any of these), as well as the nature of their interrelationships;
- Founders' financial documents for the last 3 years, audited by a financial auditor;
- Declarations by founders, candidates for the administration board and the board of directors that they own either individually or jointly with other persons involved in any commercial company, a minimum of 5% of the capital or voting rights of the companies wishing to become a PPFA;
- Details of candidates for the administration board and the board of directors;
- Organisational and financial plan for the first 5 years;

- Required documents for the custodian of the pension fund;
- Draft organizational and operating regulations of the PPFA.

PPFAs must have an administration board and a board of directors. The administration board decides the pension fund's investment policies, the financial policy and all other aspects related to the pension fund's organization and operations. Members of the administration board and of the board of directors must have:

- A degree from a higher-education institution;
- At least 5 years professional experience in the investment, financial, banking, insurance or legal sector;
- The required respectability for the position they will hold;
- The moral and professional behaviour required by their position;
- No permanent or temporary prohibition by Romanian or foreign financial supervisory authorities to undertake activities in the financial field;
- Not been an administrator of a Romanian or foreign corporation which was ordered to restructure or was declared bankrupt within 2 years prior to the PPFA's application for authorization;
- Not been part of the management of a company that did not meet its liabilities to third parties when its activities ceased;
- No criminal record or failure to meet fiscal obligations.

At least one third of the members of the administration board must hold a university degree in legal or economic sciences. Members of the administration board and the board of directors of a PPFA cannot be members of boards of other PPFAs or custodians of pension fund assets.

PPFAs must submit the following documents with their request for authorization to administer pension funds to the CSSPP:

- Proof they hold the required capital;
- Draft contract with the custodian;
- Statement of the investment policy;
- Business plan for the next 3 years;
- Proposed prospectus for the pension funds;
- Proof that fees related to the request for authorization have been paid.

The prospectus of a mandatory pension fund must comprise the following elements:

- PPFA's name and headquarters;
- Eligibility terms for the membership in the pension fund;
- Method of sharing investment returns among members;
- Investment principles of the pension fund;
- Financial, technical and other risks related to the pension fund;
- Exclusive right of property of pension fund members on the capital in their individual accounts;
- Conditions for establishing and paying benefits;
- Maximum percentages of commissions paid by the pension fund, differentiated by category;
- Periodicity and procedure of reporting to members;
- Conditions and procedures of disaffiliation and transfer to another PPFA.

A mandatory pension fund must have a minimum of 50,000 members within three years of its creation.

Contributions to mandatory pension funds are collected as part of the social insurance contributions. The payment of contributions to the mandatory pension funds is made by the Central Collector based on information received from the Central Registry.

Coverage

Covered population

Mandatory pension funds: Employees and self-employed persons age 35 or less on 1 January 2008 and who are insured under the public social insurance scheme must become members of the mandatory private pension system and join a mandatory private pension fund.

Membership is voluntary for employees and self-employed persons age between age 35 and 45 and who are insured under the public social insurance

scheme.

Mandatory private pension funds must accept applications from all eligible persons.

Persons can only belong to one mandatory private pension fund and only have one individual account at the same time.

Members who temporarily work abroad can continue contributing throughout their assignment abroad. Foreign workers who are temporarily working in Romania do not need to contribute to a Romanian mandatory private pension fund.

Individuals may also contribute to a voluntary private pension fund. Voluntary private pension funds are not covered further in the following sections.

Enforcement of affiliation

Mandatory pension funds: Employees and self-employed persons must become members of a mandatory private pension fund by signing an individual contract with a private pension fund administrator (PPFA). If they do not choose a fund within 4 months of becoming eligible, they are randomly allocated to a mandatory private pension fund. This allocation is made proportionately with regard to the number of members of each fund by the Central Registry.

Financing / Investment

Sources of funds

Member contributions

Mandatory pension funds: Members contribute part of their social insurance contributions (i.e. 9.5% as of January 2006) towards their mandatory private pension fund. The current contribution rate of 2% of gross salary will increase 0.5% each year until it reaches 6%.

Minimum earnings for contribution purposes are equal to 25% of the national monthly average wage (i.e. ROL 269 as of January 2006).

Maximum earnings for contribution purposes are equal to five times the national monthly average wage (i.e. ROL 5,385 as of January 2006).

The national monthly average wage is ROL 1,077 as of January 2006.

Covered persons must contribute to a mandatory private pension fund as long as they continue to contribute to the public social insurance scheme.

Employer contributions

Mandatory pension funds: Employers do not contribute.

Other sources of funds

Mandatory pension funds: None.

Methods of Financing

Mandatory pension funds: Funded in individual accounts.

Asset Management

Mandatory pension funds: Private pension fund administrators (PPFAs) must invest pension fund assets in the exclusive interest of members and beneficiaries. PPFAs determine the investment portfolio and must observe the following principles:

- Prudence and asset security;
- Diversification of investments;
- Maintenance of adequate liquidity reserves;
- Investment quality and profitability.

PPFAs must set out a written investment strategy observing those investment principles which must also contain:

- Asset management strategy concerning the nature and duration of liabilities;
- Investment risk measuring methods;
- Risk management procedures;
- Methods for revising the investment principles;
- Decision-making procedures regarding investments and a list of persons responsible for them.

PPFAs must revise their investment policies each time an important change occurs and at least once every 3 years. The revisions are subject to prior

approval from the Private Pension Supervision Commission (CSSPP) and members must be informed.

Of total assets invested a maximum of:

- 20% may be in money market instruments, including accounts and bank deposits denominated in ROL;
- 70% may be in state bonds issued by the Romanian Ministry of Public Finances, EU or European Economic Area (EEA) member states;
- 30% may be in bonds and other securities issued by local public administrations in Romania, EU or EEA member states;
- 50% may be in securities traded on regulated and supervised Romanian, EU or EEA markets;
- 15% may be in state bonds and other transferable securities issued by other states;
- 10% may be in bonds and other transferable securities traded on regulated and supervised markets issued by public administrations in other states;
- 10% may be in participation bonds and other transferable securities of nongovernmental foreign bodies if these instruments are listed on authorized stock exchanges and comply with rating requirements;
- 5% may be in participation bonds issued by bodies responsible for the collective investment in Romanian or foreign transferable securities.

In addition to the above, no more than 5% of pension fund assets may be invested in a single commercial company and no more than 10% may be invested in a group of issuers and persons affiliated with them.

Investment in derivatives is only allowed to the extent that they contribute to the reduction of investment risk or facilitate the efficient administration of assets.

Pension fund assets cannot be invested in:

- Assets that are banned from sale by legislation;
- Assets the valuation of which cannot be established precisely, as well as antiquities, pieces of art, vehicles and other similar assets;
- Real estate;
- Shares, securities and other transferable securities issued by PPFAs.

The CSSPP determines and publishes, on a monthly basis, the weighted average rate of return of all private pension funds and the rate of return of each private pension fund for the previous 24 months and the minimum rate of return of all funds.

If a private pension fund's rate of return is lower than the minimum rate of return of all funds for 4 consecutive quarters, the CSSPP withdraws the PPFA's authorization and implements the procedure of special administration (see section Protection of Rights, sub-section Other measures).

Benefit provisions

Preservation, portability, transferability

Mandatory pension funds: Members may change their private pension fund administrator (PPFA) by notifying the new PPFA they wish to transfer 30 calendar days before the date of their effective affiliation to the new PPFA. Membership in the old PPFA ceases, and starts in the new PPFA, on the date the capital in the individual account is transferred to the new PPFA.

There is no minimum number of contributions required for the transfer but PPFAs may charge a transfer fee if the transfer occurs before members have 2 years membership in the previous PPFA.

If changing employers, permanent domicile or residence to another country, members may choose between continue paying contributions to a PPFA in Romania or to another pension fund elsewhere.

If members stop contributing to a mandatory private pension fund because they cease to be liable (i.e. they are no longer insured under the public social insurance scheme) their pension rights are preserved in their individual account in the PPFA.

Retirement Benefits

Benefit qualifying conditions

Mandatory pension funds: Retirement age is the same as under the public social insurance scheme (i.e.

age 63 for men and 57 and 9 months for women). The pensionable age is being raised gradually to age 65 for men and age 60 for women by 2014.

Withdrawal of funds before retirement

Mandatory pension funds: Not permitted.

Benefit structure / formula

Mandatory pension funds: Defined contributions.

At retirement age, members receive a life pension based on the value of the capital accumulated in their individual accounts and in accordance with actuarial assumptions. Pensions are calculated and paid by private pension fund administrators (PPFAs).

The pension cannot be less than the member's total contributions minus fees.

Members who do not have sufficient accumulated capital to buy a minimum life pension may receive their capital as a lump sum or as periodic payments for a period of up to 5 years.

Regulations on old-age pensions from private pension funds had not been issued by 1 January 2006.

Benefit adjustment

Mandatory pension funds: No information on adjustment rules available.

Survivors

Benefit qualifying conditions

Mandatory pension funds: Eligible survivors are children up to age 16 (age 26 if a student; no limit if disabled) and surviving spouses. A life pension is paid to the surviving spouse if the marriage lasted at least 15 years. If the marriage lasted between 10 and 15 years, the survivor pension is reduced by 0.5% for each month that the marriage lasted under 15 years. Disabled surviving spouses married for at least 1 year before date of death receive a survivor pension regardless of age. If death was caused by a work accident, occupational disease or tuberculosis and the surviving spouse has no earnings from professional activities for which insurance is mandatory, or if their income is less than one quarter of the national gross average wage, the survivor benefit is paid regardless of age and length of marriage.

Benefit structure

Mandatory pension funds: An account must be opened in the name of eligible survivors in the pension fund of which the deceased was a member and to which the deceased member's capital must be transferred.

Eligible survivors may:

- Merge their accounts into a sole account in a private pension fund if they are members of another private pension fund; or
- Opt to receive the deceased member's accumulated capital as a lump sum or as periodic payments for a period of up to 5 years if they are not members of any authorized private pension fund.

Disability

Benefit qualifying conditions

Mandatory pension funds: Disability benefits are paid to members with a loss of at least 50% of working capacity as the result of an accident (including work-related accidents), diseases (including occupational diseases), tuberculosis, or military service. Prior contribution conditions vary according to age at the onset of disability. No prior contribution conditions apply if disability results from a work accident, an occupational disease, tuberculosis, or military service.

Benefit structure

Mandatory pension funds: Disability pension is based on the value of the member's accumulated capital in the individual account and actuarial assumptions.

Members who do not have sufficient accumulated capital to buy a minimum disability pension may receive their capital as a lump sum or as periodic payments for a period of up to 5 years.

Regulations on disability pensions of private pension funds had not been issued by 1 January 2006.

Protection of Rights

Protection of Assets

Mandatory pension funds: Pension fund assets belong to the individual members and must be kept separate from the assets of the private pension fund administrator (PPFA).

PPFAs must establish a reserve fund which aims to ensure payment of the minimum rate of return and to pay benefit liabilities. The calculation of technical provisions shall be made on an annual basis by an actuary or another specialist in this field, such as an auditor, according to national legislation using normative actuarial methods established by the Private Pension Supervision Commission.

Pension fund assets must be held by a custodian.

Financial and Technical Requirements / Reporting

Mandatory pension funds: Private pension fund administrators (PPFAs) must publish an annual report with accurate and full information related to the activity carried out throughout the previous calendar year. The report must be submitted to the Private Pension Supervision Commission (CSSPP) and to each of the pension fund members.

The annual report comprises the following information relative to PPFAs and to the pension funds they manage:

- Members of the administration board and the board of directors;
- Shareholders' details if they own more than 5% of the total stock and the percentage these shareholders hold;
- Information about the custodian;
- Information regarding the financial situation of the mandatory pension fund.

PPFAs must report to the CSSPP on a monthly basis on the investments of the mandatory pension fund they manage, including at least:

- Structure of the investment portfolio;
- Percentage of the pension fund's assets, according to each class of assets, traded by a single trading company or in a single issuing entity.

The CSSPP reports to the Romanian Parliament each year on the performance of each pension fund during the previous year.

Whistleblowing

Mandatory pension funds: No legal rules.

Standards for service providers

Mandatory pension funds: Auditors must be natural or legal persons who are members of the Chamber of Financial Auditors from Romania. They cannot delegate their responsibility for their specific activities to a third party. Financial audits cannot be done by the same auditor for more than 5 consecutive years.

The custodian of pension fund assets must be a Romanian bank authorized by the Private Pension Supervision Commission (CSSPP). In order to obtain such authorization, banks must be authorized by the National bank of Romania to be custodians of financial assets of pension funds.

Custodians can also be other entities authorized as pension fund custodians in another EU or European Economic Area member state. These entities are exempted from the requirement of being authorized by the CSSPP.

Fees

Mandatory pension funds: Private pension fund administrators (PPFAs) may charge a maximum of 2.5% of paid-in contributions and a maximum of 0.05% of net assets under management per month.

A transfer fee may be charged if members transfer from one PPFA to another before completing 2 years of membership in the previous PPFA.

PPFAs may charge additional fees for providing additional information requested by members or beneficiaries.

Winding up / Merger and acquisition

Mandatory pension funds: No legal rules.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory pension funds: A national guarantee fund is to be created within 90 calendar days from the licensing for pension management of at least 3 private pension fund administrators (PPFAs). Its implementation, use, funding level and financing must be established on proposal of the Committee (see below) with the Private Pension Supervision Commission's (CSSPP) approval.

The guarantee fund pays benefits if PPFAs or pension providers do not pay their obligations in due time. It continues paying until the entities involved resume payment.

The guarantee fund is financed by contributions of PPFAs and pension providers. Its management is monitored and controlled by a Committee that consists of one representative of each PPFA and pension provider.

The guarantee fund's assets must be calculated and certified by an actuary or another specialist in the field, including a financial auditor, in compliance with national legislation, based on actuarial methods established by the CSSPP.

The guarantee fund's assets may be invested in treasury bonds, interest deposits and any other financial instruments specified by the CSSPP.

Private pension funds cannot be declared bankrupt.

Disclosure of information / Individual action

Mandatory pension funds: Private pension fund administrators (PPFAs) must inform their members annually about the capital accumulated in their individual accounts, the number of units of the fund the capital represents and the unit's value. PPFAs must also inform members about relevant amendments to the private pension fund regulations within 10 calendar days.

Upon request of members and/or beneficiaries, PPFAs must submit information about the investment policy, annual accounts, investment portfolio and risk, and investment-related expenses. PPFAs may charge additional fees for providing additional information requested by members or beneficiaries.

Members and beneficiaries who consider that their interests have been prejudiced as a result of noncompliance with legal rules may take their case to the competent courts of law.

Other measures

Mandatory pension funds: The Private Pension Supervision Commission (CSSPP) can appoint a Special Surveillance Board (SSB) when a private pension fund administrator (PPFA)'s rate of return has been lower than the minimum rate of return of all PPFAs for 4 consecutive quarters. It can also be appointed in situations which could prejudice members' and beneficiaries' interests. The SSB's task is to improve the fund's performance to safeguard members' and beneficiaries' rights. It can exercise its functions for a maximum of 1 year. The SSB does not replace the PPFA's administration board and board of directors.

The CSSPP can also appoint a special administrator. It will do so when the special surveillance has not restored the PPFA's financial balance, or if the administrator's or pension fund's authorization was withdrawn. In the latter case, the special administration will cease once all members' assets and responsibility for beneficiaries' benefits are transferred to another PPFA. Special administration can be applied for a maximum of 1 year.

Tax Treatment

Taxation of member contributions

Mandatory pension funds: Tax deductible.

Taxation of employer contributions

Mandatory pension funds: Tax deductible.

Taxation of investment income

Mandatory pension funds: Tax-exempt.

Taxation of benefits

Mandatory pension funds: Taxed as income under ordinary tax legislation.

Regulatory and Supervisory Authorities

Private Pension Supervision Commission:
Regulates and supervises private pension funds. It is an autonomous administrative body with the purpose of protecting the rights of members and beneficiaries and ensuring an effective functioning of the private pension system. For a period of 18 months from its establishment in November 2005, the CSSPP's running costs will be covered from the budget of the Ministry of Labour, Social Solidarity and Family. After the 18-month period, the CSSPP will be financed by charges levied on supervised entities, revenues from donations and publications, and other legal sources.

The Private Pension Supervision Commission (CSSPP) has the following main functions:

- Authorize, suspend, or withdraw operating licences from private pension fund administrators (PPFAs), annuity providers and custodians:
- Control all activities carried out in the private pension system;
- Issue regulations on the organization and operation of the private pension system;
- Regulate the investments of pension funds;
- Inform and educate people about the private pension system.

In 2007, it will establish implementing regulations in order to make the new mandatory private pension system operational.

Comisia de Supraveghere a Sistemului de Pensii Private
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Romania
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Fax: (+4021) 330 1031
Internet: www.cspp.ro

Switzerland

Exchange rate: USD 1.00
equals 1. 31 francs (CHF)

Regulatory Framework

Federal Constitution (Articles 111 and 113); Article 111 provides for a three pillar system of old-age, disability and survivor protection consisting of a federal basic insurance scheme (first pillar), mandatory occupational plans (second pillar) and recognized forms of voluntary provision for old age (such as voluntary personal savings - third pillar); Article 113 defines the main features of the system of occupational plans and its purpose which is to enable pensioners to maintain their standard of living in an "appropriate way" by complementing the basic insurance scheme.

1993: Federal Law on Vested Benefits in Occupational Benefit Plans concerning Old Age, Survivors and Disability; aims at avoiding gaps in insurance cover by ensuring the continuation of coverage upon transfer from one pension institution to another.

1993: Federal Law on the Encouragement of Home Ownership through Occupational Benefit Plans; allows plan members to use their rights in order to finance the purchase of a principal residence for their own use.

1982 (revised in 2003): Federal Law on Occupational Benefit Plans concerning Old Age, Survivors and Disability; defines the minimum requirements that occupational pension plans must fulfil and thereby provides members with a minimum of protection, requires registered pension institutions to at least provide the minimum benefits established by law and authorizes the provision of more generous benefits.

Types of Schemes

Mandatory occupational plans are implemented through pension institutions registered in the Register of Occupational Benefit Plans. Registered pension institutions must provide at least legally defined minimum benefits but may also provide more generous protection.

Plans may be defined benefit or defined contribution and must provide protection against the risks of old age, disability and death.

Each employer must either establish an occupational pension plan or join a multi-employer plan. All covered employees must then be affiliated to the plan.

Institutional Framework

Occupational plans: Occupational plans must be implemented through pension institutions, which must be independent legal entities taking the legal form of foundations, cooperative societies or public law entities. Virtually all private-sector single and multi-employer pension institutions have adopted the legal form of a foundation.

Each pension institution must be registered in the Register of Occupational Benefit Plans held by the supervisory authority responsible for this institution (the responsible supervisory authority differs depending on whether the institution operates at national or cantonal level - see section Regulatory and supervisory authorities).

In order to be registered, a pension institution must:

- Be an independent legal entity established separately from the sponsoring employer(s);
- Implement a plan that provides at least the minimum contribution credits;
- Be in compliance with all legal requirements.

Pension institutions may adopt their own benefit structure within the legally defined limits and may choose the method and the organization of financing the benefits. Every institution must define the following issues in its regulations:

- Benefit structure;
- Financing and audit;
- Organization and administration;
- Relations with employers, members and

beneficiaries.

A bipartite committee must be established at each pension institution consisting of an equal number of employee and employer representatives. The bipartite committee is responsible for defining the pension institution's regulations and for making decisions concerning the management of assets (see section Asset management).

Pension institutions may partially or totally reinsure one or all of the risks of old age, disability and death with an authorized life insurance company.

Coverage

Covered population

Occupational plans: All public- and private-sector full-time and part-time employees who receive from the same employer an annual salary of more than CHF 19,350 must be affiliated to an occupational pension institution. Coverage is mandatory from age 17 for the risks of death and disability and from age 24 for old age.

Unemployed persons are, subject to certain conditions, insured against death and disability.

The self-employed, on a voluntary basis, usually join profession-wide arrangements or the pension institution established for their employees. A professional association of self-employed persons may, however, apply to the federal government to make coverage mandatory for the self-employed belonging to the profession if more than 50% of all self-employed persons belonging to the profession are members of this association.

Enforcement of affiliation

Occupational plans: The employer federations and trade unions have established a pension institution known as substitute institution in the legal form of a foundation. If an employer has not established or joined a pension institution within 6 months of the establishment of the company, all covered employees of this employer are affiliated by law to this institution and employees accrue pension rights from the first day of employment. The substitute institution receives compensation from the employer for all expenses including interest.

Financing / Investment

Sources of funds

Occupational plans: Contributions are defined in the pension institution's regulations and must be sufficient to ensure that the promised rights can be honoured.

The law defines a system of contribution credits on which minimum pension rights must be based. These credits are calculated on the so-called coordinated salary, which is the part of the annual salary between CHF 22,575 and CHF 77,400. If the coordinated annual salary is less than CHF 3,225 or if the insured person's annual salary is at least CHF 19,350 (see Section Coverage, Covered population) but less than CHF 22,575, the contribution credits are calculated on the basis of CHF 3,225.

Minimum total contribution credits for men and women as a % of coordinated salary are as follows:

- From age 25 to 34, 7%;
- From age 35 to 44, 10%;
- From age 45 to 54, 15%;
- From age 55 to 65 (55 to 64 for women), 18%.

In practice, many pension plans provide for contribution rates that differ from the minimum contribution credits and that lead to more generous protection.

Member contributions

Occupational plans: Employees pay up to one-half of total contributions.

Employer contributions

Occupational plans: Employers pay at least one-half of total contributions.

Other sources of funds

Occupational plans: None.

Methods of Financing

Occupational plans: Funded.

Asset Management

Occupational plans: The bipartite committee (see section Institutional framework) may manage the assets or contract the asset management to another institution (e.g. to asset management funds specialized in the investment of assets for mandatory occupational plans). However, even if the investment is contracted-out, the bipartite committee must define guidelines for the investment of plan assets. Employee and employer representatives thus determine how plan assets are to be invested.

The asset management must be done so as to guarantee the security of investments, a reasonable rate of return, appropriate risk diversification and the coverage of foreseeable liquidity requirements.

Assets must be invested in different investment categories and must be diversified in several regions and economic sectors. The rate of return must be similar to the one that can be realized on the money, capital and property markets.

An appropriate Asset/Liability Management (ALM) must be carried out. In the case of absence of such ALM, assets may only be invested in:

- Cash deposits;
- Bonds;
- Property and land;
- Property societies;
- Equities.

Of total assets invested:

- 100% may be in bonds issued in Switzerland, with a maximum of 15% per issuer if the issuer is not the federal or a cantonal government, a bank or an insurance company;
- A maximum of 75% may be in mortgage bonds on property;
- A maximum of 50% may be in property and property societies of which at least half the capital consists of property in Switzerland;
- A maximum of 30% may be in equities issued by issuers in Switzerland, with a maximum of 10% per issuer;
- A maximum of 30% may be in bonds issued by an issuer outside Switzerland, with a maximum of 5% per issuer;
- A maximum of 25% may be in equities issued by issuers outside Switzerland, with a maximum of 5% per issuer;
- A maximum of 20% may be in foreign currencies;
- A maximum of 5% may be in property in foreign countries and property societies of which more than half the capital consists of property outside Switzerland.

Notwithstanding these regulations, of total assets invested:

- A maximum of 100% may be in cash and bonds settled in a fixed amount;
- A maximum of 70% may be in property and equities;
- A maximum of 50% may be in equities (in both Swiss and foreign currencies);
- A maximum of 30% may be in bonds issued by an issuer outside Switzerland and in foreign currencies;
- A maximum of 30% may be in foreign currencies and equities issued by an issuer outside Switzerland.

Assets may be invested in investment funds if the portfolio of these funds is in compliance with the legal investment restrictions.

Of total assets invested, a maximum of 5% may be in the sponsoring employer.

Pension institutions are required to apply a minimum yearly interest rate of 2.5% since 1 January 2005.

Benefit provisions

Preservation, portability, transferability

Occupational plans: Upon terminating membership with a pension institution before retirement, disability or death, members are entitled to their vested benefit. This is generally paid to the pension institution of the new employer. They may, however, receive the vested

benefit as a cash lump sum if:

- They establish an independent business and are no longer covered by the system of mandatory occupational plans;
- They leave Switzerland;
- The vested benefit amounts to less than their annual contribution.

The calculation of the vested benefit differs according to whether the pension institution implements a defined contribution or a defined benefit plan.

If defined contribution, the vested benefit equals the employee and employer contributions plus any other payments that may have been made and interest.

If defined benefit, the vested benefit equals the amount which, according to actuarial calculations, would be necessary to buy from the same institution the benefits accrued by the member at the time of termination of employment (i.e. the current value of acquired benefits).

A minimum amount of the vested benefit is guaranteed by the law. This minimum equals the employee contributions plus 4% per year of age after age 20, up to a maximum of 100%.

Retirement Benefits

Benefit qualifying conditions

Occupational plans: The retirement age is 65 for men and 64 for women.

Early retirement is allowed if provided for in the pension institution's regulations. The minimum early retirement age is 58 for men and women.

Withdrawal of funds before retirement

Occupational plans: Members may pledge their right to future benefits not yet accrued or a sum up to the amount of their vested rights (on certain conditions), or may receive an advance payment up to the amount of their vested rights, in order to finance the purchase of a principal residence for their use or to amortize a mortgage on such a residence.

Restrictions apply for members aged 50 or older.

If the residence is sold, members must generally repay the amount withdrawn to the pension institution.

The member may, until 3 years before normal retirement age, voluntarily repay the received sum.

Early withdrawals are taxed. The tax paid upon withdrawal is reimbursed if members repay the amount received.

Benefit structure / formula

Occupational plans: Defined benefit or defined contribution.

Benefits are generally paid as pensions, but lump-sum benefits are possible if pensions would be lower than 10% of the minimum retirement pension under the basic insurance scheme (CHF 1,075 a month in 2006). The member may claim the payment of a quarter of their retirement assets as a capital benefit.

Retirement pensions payable for life must be at least equal to a percentage of the minimum accumulated capital. This percentage is known as the conversion rate and is equal to 7.1% for men and 7.2% for women. The minimum accumulated capital must consist of the minimum contribution credits (see section Sources of funds) plus a minimum yearly interest of 2.5%.

Persons receiving retirement pensions are entitled to a child benefit for each child that would be entitled to an orphan pension upon death of the pensioner. The child benefit is equal to the potential orphan pension (see section Survivors).

Upon divorce, benefits accrued during the period of marriage must be divided between the former married persons, in principle in equal parts.

Benefit adjustment

Occupational plans: Retirement pensions must be adjusted according to the pension institution's financial possibilities. The method of adjusting pensions based on the pension institution's financial possibilities must be defined in the institution's regulations.

Survivors

Benefit qualifying conditions

Occupational plans: Survivor benefits are paid upon death before or after retirement or if the deceased received a disability pension.

A surviving spouse pension must be paid if the surviving spouse, upon the death of the deceased, supports one or more children, or if the surviving spouse is aged 45 or more and the marriage lasted for at least 5 years. The payment of the surviving spouse pension ceases in the case of remarriage.

A divorced person is eligible for a surviving spouse pension if the marriage lasted for at least 10 years and if the divorced person has been granted lifelong financial support upon divorce.

Orphans, including foster children, receive an orphan pension if they are under age 18 (25 if in education or if at least 70% disabled and unable to engage in paid employment).

Benefit structure

Occupational plans: If the deceased member was still an active member, the surviving spouse pension is equal to 60%, and the orphan benefit is equal to 20%, of the full disability pension that the member would have received in the case of disability (see section Disability).

If the deceased member was a beneficiary, the surviving spouse pension is equal to 60%, and the orphan pension is equal to 20%, of the last monthly retirement (see section Retirement benefits) or disability (see section Disability) pension paid to the deceased.

Surviving spouses and orphans may opt to commute the pension to a lump-sum payment if the surviving spouse pension is lower than 6%, or the orphan pension is lower than 2%, of the minimum old-age retirement pension under the basic insurance scheme (CHF 1,075 a month in 2006). If the respective pension exceeds these amounts it may still be commuted if it is provided for in the regulations of the pension institution.

Benefit adjustment

Survivor pensions must first be adjusted in line with the variation of prices at the beginning of the fourth calendar year after the payment has started. Thereafter, adjustments take place at the same time as the adjustment of the benefits paid by the basic insurance scheme (generally every 2 years).

Disability

Benefit qualifying conditions

Occupational plans: Employees who are at least 50% disabled as defined under the basic insurance scheme are eligible for a disability pension if they were insured when the disability that led to incapacity for work arose. A full pension is paid if the degree of disability is 66% and a half pension is paid if the degree of disability is 50%. Pension institutions may use a broader definition of disability. From 2007, a full pension will be paid if the degree of disability is 70%, a three-quarter pension if the degree of disability is 60%, a half pension if the degree of disability is 50% and a quarter pension if the degree of disability is 40%.

Benefit structure

Occupational plans: The full disability pension is equal to the accumulated capital (mandatory contribution credits plus interest) plus the projected contributions without interest until retirement, calculated on the basis of the last salary before becoming disabled, times the so-called conversion rate which is equal to 7.1% for men and 7.2% for women.

Persons receiving disability pensions are entitled to a child benefit for each child that would be entitled to an orphan pension upon the death of the pensioner. The child benefit is equal to the potential orphan pension (see section Survivors).

The disability pension may be commuted to a lump sum if the pension is lower than 10% of the minimum old-age retirement pension under the basic insurance scheme (CHF 1,075 a month in 2006).

Benefit adjustment

Disability pensions must first be adjusted in line with the variation of prices at the beginning of the fourth calendar year after the payment has started. Thereafter, adjustments take place at the same time as the adjustment of the benefits paid by the basic insurance scheme (generally every 2 years).

Protection of Rights

Protection of Assets

Occupational plans: Pension institutions are independent legal entities that hold the plan assets completely separate from the assets of the sponsoring employers.

Financial and Technical Requirements / Reporting

Occupational plans: Pension institutions must designate an auditing body to audit their management, accounts and investments on an annual basis.

A qualified expert certified by the federal government must be appointed to determine periodically whether the pension institution has the capacity to fulfil its obligations and whether the actuarial provisions related to contributions and benefits are in accordance with legal requirements.

A copy of the written report of the auditing body must be submitted to the responsible supervisory authority.

Whistleblowing

Occupational plans: If the auditing body (see section Protection of rights, Financial and technical requirements / Reporting) discovers deficiencies in the administration of a pension institution, it must give the bipartite committee reasonable time to correct these deficiencies. If no appropriate action is taken within this period, the auditing body must inform the responsible supervisory authority of this fact.

Standards for service providers

Occupational plans: The auditing body (see section Protection of rights, Financial and technical requirements / Reporting) must be independent from the managers of the pension institution and, in the case of single employer pension plans, from the sponsoring employer.

Qualified experts appointed by pension institutions must be certified by the federal government.

Fees

Occupational plans: No legal rules.

Winding up / Merger and acquisition

Occupational plans: The responsible supervisory authority determines whether a pension institution must be wound-up. Where an institution is wound up, the contributing members and beneficiaries have the right to receive their vested benefit (see section Preservation, portability, transferability). A claim satisfaction hierarchy plan must be established and authorized by the responsible supervisory authority.

Bankruptcy: Insolvency Insurance / Compensation Fund

Occupational plans: Employer and employee organizations must establish and manage a safety fund at the federal level that has the main functions to:

- Pay subsidies to pension institutions with financial difficulties due to an unfavourable age structure;
- Secure the payment of minimum benefits if pension institutions are insolvent.

The safety fund is established in the form of a foundation and is financed through levies paid by the pension institutions.

Disclosure of information / Individual action

Occupational plans: Pension institutions must provide members with annual benefit statements that include information on both their vested and projected future benefits.

Members may complain to the supervisory authority about actions taken by persons involved in the management of pension institutions.

Other measures

Occupational plans: Pension institutions must inform the supervisory authority if the employer has not paid the mandatory contributions for a period of 3 months.

Tax Treatment

Taxation of member contributions

Occupational plans: Tax-deductible.

Taxation of employer contributions

Occupational plans: Tax-deductible.

Taxation of investment income

Occupational plans: Tax-exempt.

Taxation of benefits

Occupational plans: Taxed as income. Pension and lump-sum payments are taxed on different bases. There are 27 different taxation schemes (1 federal and 26 cantonal). Lump-sum payments are usually taxed at a lower rate than pensions.

Regulatory and Supervisory Authorities

Cantonal and federal supervisory authorities: Each canton designates an authority that supervises the pension institutions that have their head office on its territory. The federal government directly supervises pension institutions that have a national or international character and also certain other pension institutions such as those of the federal government, the federal railways and the National Bank.

The federal government also supervises the safety fund (see section Protection of rights, Bankruptcy: Insolvency insurance / Compensation fund) and the substitute institution (see section Coverage, Enforcement of affiliation).

The supervisory authorities must ensure that pension institutions are in compliance with legal requirements. This is mainly done through:

- Examining the compliance of the pension institutions' regulations with legal requirements;
- Requiring periodical reporting from the pension institutions concerning their activities;
- Receiving the reports of the auditing body and the qualified expert;
- Taking necessary measures against any insufficiencies discovered;
- Ensuring that correct information is provided to members.

Federal Social Insurance Office: Supervises pension institutions operating on a nation-wide basis and oversees the 26 cantonal supervisory authorities.

Bundesamt für Sozialversicherung/Office fédéral des assurances sociales
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ASIA & PACIFIC - Voluntary

Information valid at 01-07-2006

Bangladesh

Exchange rate: USD 1.00
equals 69 takas (BDT)

Regulatory Framework

1984: Income Tax Ordinance; provides for favourable tax treatment of occupational provident, pension and gratuity plans.

First Schedule of the Income Tax Ordinance - Part A; defines minimum rules that pension plans must fulfil in order to obtain tax approval from the National Board of Revenue and prescribes the procedure for obtaining approval.

First Schedule of the Income Tax Ordinance - Part B; defines minimum rules that provident plans must fulfil in order to obtain tax approval from the National Board of Revenue and prescribes the procedure for obtaining approval.

First Schedule of the Income Tax Ordinance - Part C; defines minimum rules that gratuity plans must fulfil in order to obtain tax approval from the National Board of Revenue and prescribes the procedure for obtaining approval.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish an occupational pension plan for their employees.

Types of plans

All approved plans: In order to receive favourable tax treatment of contributions, investment income and benefits, employers who have established a provident, pension or gratuity plan (see below) must obtain tax approval from the National Board of Revenue (NBR) for their plan. Tax approval is granted if plans satisfy the requirements set out in the applicable part of the First Schedule of the Income Tax Ordinance (see section Regulatory framework). There are no other legal rules governing occupational approval is deemed to have been withdrawn from the date on which the changes to the rules took effect.

Membership of the plan is voluntary for covered employees. There are no legal rules on whether plan membership may be made a condition of employment.

Approved provident plans: Employers may establish provident plans that are defined contribution and provide a lump-sum benefit upon termination of employment with the sponsoring employer. Provident plans are vehicles for retirement savings only for employees with long service.

In order for a provident plan to be eligible for tax approval, the following requirements must be met:

- The plan must be established under an irrevocable trust;
- Plan assets must be held in a provident fund;
- Employers must regularly contribute to the plan;
- Employer contributions must generally not exceed employee contributions;
- The plan rules must provide for the accumulated capital of an employee to be paid as a lump sum upon termination of employment with the sponsoring employer.

The NBR may, upon application by an employer, authorize that:

- Employer contributions exceed employee contributions for employees with a monthly salary of BDT 500 or less;
- Employers make irregular contributions to the plan if this is provided for in the plan rules.

The application for approval of the provident plan must be made by the trustees for each tax year.

Approved pension plans: Employers may establish pension plans that are defined benefit or defined contribution and provide an old-age pension benefit (i.e. regular income stream).

In order for a pension plan to be eligible for tax approval, the following requirements must be met:

- The plan must be established under an irrevocable trust;

- Plan assets must be held in a pension fund;
- The only purpose of the plan must be to provide pensions to members at retirement or an age before their retirement specified in the plan rules. Disability or survivor benefits may be provided on a voluntary basis subject to plan rules;
- Employers must regularly contribute to the plan;
- Benefits must only be payable in Bangladesh.

The NBR may, upon application by an employer, authorize that the rules of a contributory plan provide for a refund of employee contributions before the benefit eligibility age in the case of certain contingencies.

The application for approval of the pension plan must be made by the trustees for each tax year and must be accompanied by copies of the plan rules, the accounts of the pension fund for the latest financial year (if the plan existed prior to the application) and the trust deed.

The Board may request any additional information from the trustees.

Approved gratuity plans: Employers may establish gratuity plans that are defined contribution and provide a lump-sum benefit after long service.

In order for a gratuity plan to be eligible for tax approval, the following requirements must be met:

- The plan must be established under an irrevocable trust;
- Plan assets must be held in a gratuity fund;
- At least 90% of the employees of the sponsoring employer must be employed in Bangladesh;
- The only purpose of the plan must be to provide a lump sum to members at their retirement, an age before their retirement specified in the plan rules or upon termination of employment after a certain period of service specified in the plan rules;
- Employers must regularly contribute to the plan;
- Benefits must only be payable in Bangladesh.

The application for approval of the gratuity plan must be made by the trustees for each tax year and must be accompanied by copies of the plan rules, the accounts of the gratuity fund for the latest financial year (if the plan existed prior to the application) and the trust deed.

The NBR may request any additional information from the trustees.

Unapproved plans: Employers may establish occupational plans without reference to the Income Tax Ordinance. Unapproved plans are not regulated and are not subject to the supervision of the NBR. They are not covered further in the following sections.

Institutional Framework

All approved plans: Plans must be established under an irrevocable trust with at least two trustees.

The trustees are responsible for the management of the contribution and benefit administration.

Coverage

All approved plans: Employees of private-sector employers (legally defined as a company, firm, association of people, a Hindu undivided family or an individual engaged in a business or profession for which profit and gains tax must be paid). Personal or domestic servants are excluded from coverage.

Public-sector employees and self-employed persons are not covered.

No legal rules concerning discrimination in coverage.

Financing / Investment

Sources of funds

Employee contributions

All approved plans: The plan rules must specify the employee contribution rate and the definition of contributory salary.

Approved provident plans: Plans must be contributory.

Approved pension and gratuity plans: Plans are usually contributory.

Employer contributions

All approved plans: Employers must contribute on a

regular basis.

The plan rules must specify the employer contribution rate and the definition of contributory salary.

Approved provident plans: Employer contributions must generally not exceed employee contributions.

Other sources of funds

All approved plans: None.

Methods of financing

All approved plans: Funded.

Asset management

All approved plans: Assets are managed by the trustees and must be invested in government securities or Sanchai Patras (tax-free savings bonds).

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All approved plans: No legal rules.

Waiting periods depend on plan rules.

Vesting rules

All approved plans: No legal rules.

Vesting depends on plan rules.

Preservation, portability, transferability

Approved provident plans: Upon termination of employment before retirement, members receive their accumulated capital as a lump sum.

Approved pension plans: Upon termination of employment before retirement or an earlier age specified in the plan rules, the members' accrued rights or accumulated capital are preserved until the specified age or retirement.

Approved gratuity plans: Upon termination of employment before retirement, an earlier age specified in the plan rules or completion of a certain service period specified in the plan rules, the members' accumulated capital is preserved until the specified age or retirement.

Retirement benefits

Benefit qualifying conditions

All approved plans: No legal rules.

The eligibility age for benefits depends on plan rules and is usually between age 55 and 60.

Approved provident plans: Retirement from current employment is required.

Benefit structure / formula

Approved provident and gratuity plans: Defined contribution.

The accumulated capital is paid as a lump sum.

Approved pension plans: Defined benefit or defined contribution.

Plans must provide pension benefits (i.e. regular income stream).

No further legal rules.

Benefit adjustment

Approved provident and gratuity plans: Not applicable, as benefits are paid as lump sums.

Approved pension plans: No legal rules.

Survivors

Approved provident and gratuity plans: The deceased member's accumulated capital is paid to the spouse, orphans and other dependents as a lump sum.

No legal rules concerning the distribution of the lump sum among several eligible survivors.

Approved pension plans: No legal rules.

Most defined benefit plans provide a survivor benefit of a percentage of the deceased member's actual or expected old-age pension to the spouse, and sometimes also to orphans.

Disability

Approved provident plans: The accumulated capital of a disabled member is paid as a lump sum if the member must terminate employment due to disablement.

Approved pension plans: No legal rules.

Some defined benefit plans provide a disability benefit of a percentage of the disabled member's expected old-age pension benefit.

Approved gratuity plans: No legal rules.

The accumulated capital of a disabled member is usually paid as a lump sum if the member must terminate employment due to disablement.

Protection of Rights

Protection of Assets

All approved plans: Plan assets must be kept in a provident, pension or gratuity fund separately from the other assets under the control of the trustees.

Financial and Technical Requirements / Reporting

All approved plans: The trustees must maintain accounts that must be open to inspection by the National Board of Revenue (NBR).

The trustees and the sponsoring employer must submit such return, statement or information as the NBR may request.

Approved pension and gratuity plans: The trustees must attach the trust deed, the plan rules and the accounts to the yearly application for tax approval made to the NBR.

Approved pension plans: Upon request by the NBR, the trustees and the sponsoring employer must submit the following documents and information within 21 days:

- The name and the place of residence of each pensioner;
- The amount of the pension payable to each pensioner;
- A copy of the accounts;
- Any other information that the NBR may request.

Whistleblowing

All approved plans: No legal rules.

Standards for service providers

All approved plans: No legal rules.

Fees

All approved plans: No legal rules.

Winding up / Merger and acquisition

All approved plans: No legal rules.

Bankruptcy: Insolvency Insurance / Compensation Fund

All approved plans: No legal rules.

Disclosure of information / Individual action

All approved plans: No legal rules.

Other measures

All approved plans: None.

Tax Treatment

Taxation of employee contributions

All approved plans: Tax-deductible.

Taxation of employer contributions

All approved plans: Tax-deductible.

Employer contributions are taxable fringe benefits for employees if the total employer and employee contribution rate exceeds 33.3% of salary.

Taxation of investment income

All approved plans: Tax-exempt.

Taxation of benefits

All approved plans: Tax-exempt if an employee has been a member of a plan for 5 years or more. Otherwise taxed.

The National Board of Revenue (NBR) may grant tax-exemption to employees who have been members of a plan for less than 5 years and whose service has been terminated due to ill health or bankruptcy of their employer.

Regulatory and Supervisory Authorities

National Board of Revenue: Approves and supervises provident, pension and gratuity plans.

The National Board of Revenue (NBR) may issue asset management rules and limit the tax-deductibility of employer and employee contributions.

If the NBR becomes aware of violations of legal requirements, it may withdraw the approval of a plan. Before withdrawing the approval, the NBR must give the trustees reasonable opportunity to cease the violation.

The NBR may require any changes to the plan rules if they contain regulations that are not in compliance with legal requirements.

National Board of Revenue
Tel.: (+8802) 83 62 442
Fax: (+8802) 83 16 143
Internet: www.nbr-bd.org

Hong Kong, China

Exchange rate: USD 1.00 equals
7.75 Hong Kong dollars (HKD)

Regulatory Framework

2000: Mandatory Provident Fund Schemes (Exemption) Regulation; provides for contracting-out of the Mandatory Provident Fund Schemes Ordinance and defines rules with which contracted-out occupational plans must comply.

1997: Insurance Companies Ordinance; provides for the authorization of Insurance Companies.

1995: Mandatory Provident Fund Schemes Ordinance; introduces the obligation for employers to arrange for the affiliation of all their employees to a mandatory provident fund scheme and defines minimum benefits that must be provided by these schemes.

1992: Occupational Retirement Schemes Ordinance (ORSO); provides for the registration and exemption of voluntarily established occupational pension plans and contains rules aimed at protecting the rights of plan members.

Inland Revenue Ordinance; regulates the tax treatment of contributions and benefits.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish a complementary occupational pension plan. A group of companies may only establish a plan if the participating companies are associated companies.

Types of plans

Complementary occupational pension plans must be implemented as:

- Nonpooled Occupational Retirement Schemes Ordinance (ORSO) registered plans;
- Pooled ORSO registered plans;
- ORSO registered contracted-out plans; or
- ORSO exempt plans.

Employee participation is voluntary except in the case of contracted-out plans.

Nonpooled ORSO registered plans: Employers willing to establish an occupational pension plan not participating in a pooling agreement (i.e. an agreement under which the same plan rules apply to two or more individual occupational pension plans - see below) must apply to the Registrar for registration.

The application must be accompanied by a statement stating:

- Whether the plan is governed by a trust or regulated by an insurance arrangement or not (if it is not, the plan may still be registered if it meets certain conditions such as separation of assets);
- Whether or not the plan is domiciled in Hong Kong;
- That the plan rules prevent its assets from being used to indemnify anybody managing the plan against any fraud, misfeasance or breach of trust;
- That the plan rules do not allow any person to change to the members' detriment either their accrued rights (accrued benefits that are not yet vested) or their vested rights under the plan unless this results from a change in the plan rules to which not less than 90% of the plan members have consented;
- That the plan rules provide for the due payment of benefits in case the plan is wound up;
- Where the plan is an offshore plan (i.e. an occupational pension plan the domicile of which is a country or territory outside Hong Kong), that the plan rules provide for the due payment of vested benefits of a Hong Kong member in case the plan's registration is cancelled;
- That where the plan is regulated by an insurance arrangement, that the terms of the arrangement provide that the sum payable by the insurer in the event of the termination of the arrangement may be paid by the insurer only to another authorized insurer or to a person who will hold that sum on trust.

The employer must state whether the trusteeship requirement (see section Institutional framework) is being fulfilled.

If the plan is defined benefit, the applicant must moreover provide the Registrar with a full certificate issued by an actuary certifying:

- That an initial actuarial valuation has been completed;
- That the employer was provided with information about the financial implications of the plan;
- That the employer confirmed in writing the commitment to contribute in accordance with actuarial recommendations;
- The expectation that, if the plan is funded as recommended, the assets will be sufficient to meet the liabilities.

If the plan is an offshore plan, the application must be accompanied by a submission to the jurisdiction of the Hong Kong Court of First Instance.

The Registrar may ask the applicant to provide all information that may reasonably be required or to amend any of the documents submitted.

Pooled ORSO registered plans: Plans can participate in a pooling agreement under which the same plan rules apply to two or more individual occupational pension plans which are then administered by the same administrator. Whereas some occupational pension plans are in fact constituted in a way as to be an integral part of a pooling agreement, there is a legal difference between the occupational pension plan and the pooling agreement.

Employers willing to establish a complementary occupational pension plan participating in a pooling agreement must apply to the Registrar for registration of their plan. A facilitated registration procedure applies to this type of plan. The same statement (see nonpooled ORSO registered plans) can be used by all plans participating in the pooling agreement and has thus to be prepared only once. Actuarial certificates must, however, still be prepared separately for every defined benefit plan.

Moreover, the application must be accompanied by a statement of the administrator of the pooling agreement stating that the agreement applies to the occupational pension plan to which the application relates.

ORSO registered contracted-out plans: The Mandatory Provident Fund Schemes Ordinance requires employers to affiliate all their employees to a mandatory provident fund scheme.

Employers sponsoring a relevant ORSO registered plan might apply to the Mandatory Provident Fund Schemes Authority (MPFA) to contract-out of their obligation to affiliate all their employees to a mandatory provident fund scheme (mandatory provident fund exemption). If an employer sponsors an ORSO registered contracted-out plan, employees have the choice between joining the employer's ORSO registered contracted-out plan and being affiliated by the employer to a mandatory provident fund scheme. Participation in one or the other of the arrangements is mandatory for the employee unless the employee is an exempt person as defined under the Mandatory Provident Fund Schemes Ordinance (see profile on mandatory complementary and private pensions in Hong Kong).

In order to be considered eligible for contracting-out, a plan must be registered with the Registrar and must:

- Be governed by a trust;
- Provide benefits payable on termination of service, retirement, death, disability and winding up of the plan;
- Be established on or before 15 October 1995;
- Have submitted the application for ORSO registration not later than 15 January 1996.
- Have made the contracting-out application to the MPFA by 3 May 2000.

ORSO registered contracted-out plans must comply with all ORSO requirements and with those additional requirements laid down in the Mandatory Provident Fund Schemes (Exemption) Regulation which aims at enhancing protection for members of contracted-out occupational plans.

ORSO exempt plans: Employers willing to establish a complementary occupational pension plan may apply to the Registrar for a certification of exemption

from ORSO requirements if:

- The plan is an offshore plan registered or approved by an authority outside Hong Kong which has basically similar functions as those of the Hong Kong Registrar;
- Out of all members of the plan no more than either 10% or fifty, whichever is less, are Hong Kong permanent identity card holders.

An exempt plan is not subject to ORSO requirements. However, the employer must provide to the Registrar for each period of 12 months either:

- Evidence that an offshore plan is registered or approved abroad; or
- A written statement of the total number of plan members and the number of those members who are Hong Kong permanent identity card holders.

ORSO exempt plans are not covered further in the following sections.

Institutional Framework

Nonpooled and pooled ORSO registered plans: Complementary occupational pension plans must be registered with, or be approved as exempt from the Occupational Retirement Schemes Ordinance (ORSO) by, the Registrar of Occupational Retirement Schemes (Mandatory Provident Fund Schemes Authority - MPFA). Exempt plans are not regulated as long as they prove periodically that they fulfil the exemption requirements.

Plans must generally be administered by either one or several trustees (individuals or a body corporate) or an insurance company. The Registrar may authorize that a plan is administered otherwise than by one or several trustees or an insurance company if certain conditions (e.g. asset separation) are met.

The main duties of the administrator are to:

- Keep proper accounts and prepare annual financial statements (for the purposes of audit and their filing with the Registrar);
- Receive from the employer a written undertaking to implement the actuary's recommendations in cases where the plan is defined benefit;
- Meet the requirements related to plan assets;
- Take the consultative committee's (see below) suggestions into account;
- Comply with the legislation and all requirements the Registrar may formulate.

If the plan is administered by one or several trustees, the following trusteeship requirements must be fulfilled:

- If there is only one trustee, this trustee must not be an employer trustee (defined for this purpose as the sponsoring employer, an associate of the sponsoring employer or an employee of the sponsoring employer);
- If there are several trustees, there must be at least one nonemployer trustee.

If the plan is administered by an insurance company, the latter must be authorized under the Insurance Companies Ordinance to carry on insurance business.

A designated person must be nominated as the contact person for the Registrar. In the case of a plan administered by trustees that are individuals, the designated persons of a plan are each of the trustees that are ordinarily residents in Hong Kong and hold a Hong Kong identity card. In the case of a plan administered by a trustee that is a body corporate, the designated person is the trustee having a place of business in Hong Kong. Where none of the above applies, the designated person is a person directed by the Registrar. In the case of a plan administered by an insurance company, the designated person should be the relevant insurer under the Insurance Companies Ordinance.

The designated person must, among other things:

- Notify the Registrar in the case of changes to the plan rules;
- Provide the Registrar with an annual report of the plan including a copy of the audited financial statements and the auditor's report, a certified copy of the resolution of members regarding dispensation with the audit requirement for a pooled ORSO plan (see section Protection of rights, subsection Financial and technical requirements / reporting);
- In the case of defined benefit plans, provide the

Registrar with the required actuarial certificates (see section Protection of rights, subsection Financial and technical requirements / reporting);
- Provide plan members and the consultative committee (see below) with information.

If the number of plan members exceeds 20, the majority of the members may decide to form a consultative committee and select its members among themselves. The consultative committee has the statutory function to advise the administrator of the plan and has, in order to duly fulfil this function, extensive rights to information.

ORSO registered contracted-out plans: Plans must be managed by one or several trustees (individuals or a body corporate). The person who has the duty or power to appoint or retire trustees must obtain approval from the Mandatory Provident Fund Schemes Authority (MPFA) before appointing or retiring any trustee. Stricter trusteeship requirements apply to ORSO registered contracted-out plans than to other ORSO registered plans.

Trustees appointed on or after 1 December 2000 must:

- In the case of a trustee which is a company incorporated in Hong Kong, be a registered trust company;
- In the case of a trustee which is a company incorporated outside Hong Kong, satisfy the MPFA that it is comparable to a registered trust company and has significant presence in Hong Kong;
- In the case of an employer trustee who is an individual, satisfy the MPFA that this person is of good reputation and character and has not been found guilty, whether in Hong Kong or elsewhere, of an offence involving fraud or dishonesty;
- In the case of a nonemployer trustee who is an individual, satisfy the MPFA that this person:

— is of good reputation and character and has not been found guilty, whether in Hong Kong or elsewhere, of an offence involving fraud or dishonesty;
— has the skill, knowledge and experience that are necessary for the successful operation of the plan;
— has no past or present association with the sponsoring employer, its associate, its controller or associate of its controller and is not an auditor, asset manager or actuary of the plan;
— is ordinarily resident in Hong Kong.

Where all trustees of a plan are individuals, there must be at least two trustees of whom at least one must be a nonemployer trustee.

Coverage

All ORSO registered plans: Private- and public-sector employees. Civil servants are covered by arrangements that do not fall under the Occupational Retirement Schemes Ordinance (ORSO) and that are not covered further in the following sections. The ORSO does not apply to the self-employed.

Discrimination between men and women is prohibited by the Sex Discrimination Ordinance. There are no legal rules concerning discrimination on the basis of age, working hours or category of employment. Access to plans is usually granted to all employees, but different benefit formulas may apply to different categories of employees.

ORSO registered contracted-out plans: All members (both existing members that had been members of a plan on or before 1 December 2000 and new members that join the plan thereafter) of an ORSO registered contracted-out plan must be given a choice between the ORSO registered contracted-out plan and a mandatory provident fund scheme. In order to enable employees to make that choice, the employer must provide them with the following information:

- A statement clarifying that the member has a once-only choice and the date until which the choice must be made;
- Particulars of the benefit structure of the contracted-out plan (e.g. the benefit formula in the case of defined benefit plans and the required employee and employer contribution in the case of defined contribution plans);
- The name of the trustee(s) of the plan;
- The investment choices available if the plan provides for plan members to choose their investments;
- Particulars of the plan's administrative costs and

who bears these costs;
- Overview of the compensation fund coverage provided in the case of mandatory provident fund schemes;
- The rights that an existing member would have under the contracted-out plan if electing to become a member of the mandatory provident fund scheme;
- Illustrative examples to demonstrate the differences in benefits between the contracted-out plan and the mandatory provident fund scheme chosen by the employer;
- The treatment of accrued benefits of an existing member of the contracted-out plan who elects to become a member of the mandatory provident fund scheme.

Financing / Investment

Sources of funds

Employee contributions

All ORSO registered plans: No legal rules.

Some plans are contributory in which case the employee contribution is usually 5% of salary.

Employer contributions

All ORSO registered plans: No legal rules.

Employer contributions are usually between 5% and 15% of salary.

Other sources of funds

All ORSO registered plans: None.

Methods of financing

All ORSO registered plans: Funded.

Asset management

Nonpooled and pooled ORSO registered plans: Trustees may manage the investment of plan assets themselves or contract it to asset managers. No licensing requirement applies to asset managers of ORSO registered plans that are not contracted-out.

There are no quantitative limits on the investment of plan assets except concerning self-investment.

Loans must not be granted to the sponsoring employer or an associate of the sponsoring employer. Moreover, not more than 10% of the plan assets must consist of:

- Restricted investments, which are investments in any security of, or issued by, the sponsoring employer or an associate of this employer (except securities issued by an associate of the sponsoring employer in the form of an option which if exercised will constitute an investment in the share capital of a body corporate other than the sponsoring employer or an associate of this employer); and
- Investments in any security in form of an option which if exercised results in investment in the share capital issued by the sponsoring employer or an associate of this employer.

Subject to exceptions, plan assets acquired on or after 15 October 1993 must not consist of investment in share capital of a body corporate which is neither listed on the Hong Kong Unified Stock Exchange nor publicly listed on a stock exchange recognized by the Securities and Futures Commission.

Where the Registrar believes that these investment restrictions are not complied with, it may require the administrator to ensure compliance with them within a specified period.

Plans may provide for members' participation in the investment of their assets. Different investment options are in this case offered to each member and members choose the option that best suits their risk preferences.

ORSO registered contracted-out plans: If the trustees appoint an asset manager, the Mandatory Provident Fund Schemes Authority (MPFA) must be given notice of this appointment.

The asset manager of an ORSO registered contracted-out plan must be registered under the Securities Ordinance in Hong Kong or be a company authorized by an authority recognized under the law of a place outside Hong Kong.

The assets must be managed with the care, diligence

and skill that a prudent person of business would exercise (i.e. prudent person principle). Plan assets must be invested in different asset classes in order to minimize the risk of losses.

The asset manager must ensure that derivatives are not used in such a way as to result in the assets of the plan becoming leveraged thereby. Strict limits apply to the amount of money that may be borrowed.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All ORSO registered plans: No legal rules.

Vesting rules

All ORSO registered plans: No legal rules.

Employee contributions usually vest immediately. Employer contributions usually vest gradually with full vesting often occurring after 10 years of plan membership.

Preservation, portability, transferability

Nonpooled and pooled ORSO registered plans: No legal rules.

Preservation, portability and transferability are usually not possible.

Employees usually receive a termination benefit when terminating employment before retirement. The benefit is a lump sum consisting of employee contributions and vested employer contributions.

ORSO registered contracted-out plans: The minimum mandatory provident fund benefits (minimum MPF benefits - see section Benefit structure / formula) of new members (i.e. employees joining the plan after 1 December 2000) must, upon leaving employment before retirement, be transferred to a mandatory provident fund scheme and be preserved in this scheme. The minimum MPF benefits cannot therefore be paid as a termination benefit.

There are no legal rules concerning the treatment of rights of existing members (i.e. employees that had been a member of a plan on or before 1 December 2000) and this depends on plan rules.

If the employer changes the plan rules so as to reduce any member's future rights or benefits under the plan, the member must once again be given a choice between remaining a member of the ORSO registered contracted-out plan and being affiliated by the employer to a mandatory provident fund scheme.

Retirement benefits

Benefit qualifying conditions

All ORSO registered plans: Tax rules allow tax-effective retirement from age 45, but most plans provide for a retirement age of 60 for both men and women.

Benefit structure / formula

Nonpooled and pooled registered plans: Defined benefit or defined contribution.

The benefit is usually paid as a lump sum.

No legal rules concerning the benefit formula. Defined benefit lump-sum plans usually provide for accrual of rights with a certain percentage of the average monthly salary over the last 12 months of employment.

ORSO registered contracted-out plans: Defined benefit or defined contribution.

The benefit is usually paid as a lump sum.

Contracted-out plans must provide at least minimum mandatory provident fund benefits which are the lower of:

- The rights accrued after the plan has been contracted-out;
- 1.2 times final average monthly relevant income times years of service after the plan has been contracted-out.

The final average monthly relevant income is the average salary in the last 12 months before termination of employment, termination of the plan or retirement, up to the limit of HKD 20,000.

Benefit adjustment

All ORSO registered plans: No legal rules.

As benefits are usually paid as a lump sum, benefit adjustments are not applicable.

Survivors

All ORSO registered plans: No legal rules.

Some employers provide lump-sum survivor benefits under a separate plan implemented through a group life insurance. The lump sum usually ranges between 2 and 5 times annual salary.

Disability

All ORSO registered plans: No legal rules.

Some employers provide lump-sum disability benefits under the same plan which covers survivor benefits and grant the same benefits as in the case of death.

Protection of Rights

Protection of Assets

All ORSO registered plans: Plan assets must be held separately from the sponsoring employer and must not be part of the assets of the plan administrator that are not vested in the administrator in its capacity as such.

Financial and Technical Requirements / Reporting

All ORSO registered plans: The administrator of a plan must keep proper accounts and records as regards all assets, liabilities and financial transactions and must prepare financial statements after each financial year of a plan. Financial statements must be audited by an auditor. The auditor must prepare a report on the accounts stating, among other things, whether proper accounts have been kept and whether, in the case of defined contribution plans, contributions have been made in compliance with the plan rules or, in the case of defined benefit plans, the requirements set out in the actuarial certificate (see below) were fulfilled.

Plans must be funded in compliance with plan rules and, in the case of defined benefit plans, the recommendations laid down in the actuarial certificate. Plan assets must always be sufficient to meet vested liabilities.

In the case of defined benefit plans, the designated person must ensure that an actuary conducts an actuarial review every 3 years and prepares an actuarial certificate. If the plan is underfunded, the actuarial review must be undertaken annually.

To ensure proper management of the plan and proper funding, an annual report including audited financial statements, the auditor's report and the actuarial certificate must be submitted to the Registrar. The Registrar may require any reasonable information to be submitted by the designated person or the sponsoring employer of an ORSO registered plan.

Pooled ORSO registered plans: As regards audited financial statements, the administrator must appoint a common accounting year for all participating plans and the same auditor must audit the financial statements of each participating plan under the pooling agreement.

The requirement imposed on the administrator to require an auditor to audit the financial statements and to prepare a report on the accounts may be waived for a maximum of 2 consecutive years if the assets of a plan participating in a pooling agreement were found to be sufficient in the last auditor's report (defined contribution plans) or in the last actuarial certificate (defined benefit plans) to cover liabilities. However, over 50% of plan members must give their consent for the requirement to be waived.

ORSO registered contracted-out plans: An annual report must be submitted to the Registrar. This report can be combined with the above mentioned reports required for the other ORSO registered plans.

Whistleblowing

All ORSO registered plans: No legal rules.

Standards for service providers

All ORSO registered plans: The Registrar may, if a report or certificate or other required statement is

submitted, require to be provided with information concerning the particulars, qualifications and experience of the person by whom the report, statement or certificate was issued.

Generally, an auditor must be a registered Hong Kong accountant, a person who may lawfully practice as a professional accountant in the country or jurisdiction which is the domicile of the plan or any person holding qualifications that the Registrar considers to be similar.

Actuaries must be Fellows of the Faculty of Actuaries of Scotland, the Institute of Actuaries of England, the Society of Actuaries of the United States of America or the Institute of Actuaries of Australia, or be persons holding qualifications that the Registrar considers similar.

Auditors and actuaries must be independent from the sponsoring employer and other relevant parties.

Fees

All ORSO registered plans: No legal rules.

Winding up / Merger and acquisition

All ORSO registered plans: The Registrar may cancel the registration of a plan if the plan members' rights are in danger of being prejudiced and may apply to the High Court to order the plan to be wound up, in which case a liquidator must be appointed. If a plan is wound up, the liabilities are satisfied in the following order:

- Liabilities to general creditors;
- Vested liabilities to the plan members.

Bankruptcy: Insolvency Insurance / Compensation Fund

All ORSO registered plans: No legal rules.

Disclosure of information / Individual action

All ORSO registered plans: The sponsoring employer and/or the designated persons must disclose certain information to the members (e.g. the plan rules) and must, not later than 6 months after the end of a plan's financial year, provide them with a statement of their vested rights.

Other measures

All ORSO registered plans: None.

Tax Treatment

All ORSO registered plans: Plans are recognized by the Inland Revenue Department for favourable tax treatment if they are either registered or exempt from the ORSO. As operating a complementary occupational pension plan without applying for either registration or exemption is illegal, all legally operated plans automatically profit from favourable tax treatment.

Taxation of employee contributions

Nonpooled and pooled ORSO registered plans: Taxed.

ORSO registered contracted-out plans: Tax-deductible up to HKD 12,000 a year.

Taxation of employer contributions

All ORSO registered plans: Tax-exempt up to 15% of the employee's salary.

Employer contributions are not considered as taxable fringe benefits for employees.

Taxation of investment income

All ORSO registered plans: Tax-exempt.

Taxation of benefits

All ORSO registered plans: Lump-sum retirement benefits and termination benefits paid after age 45 are exempt from income tax.

However, if an employee has been a member of the plan for less than 10 years, the part of the accrued benefit that is attributable to employer contributions is only exempt in proportion to the number of completed months of service to 120 (i.e. 10 years proportionate benefit rule).

Pension benefits are subject to income tax.

Regulatory and Supervisory Authorities

Mandatory Provident Fund Schemes Authority (MPFA): Registers and supervises complementary occupational plans and mandatory provident fund schemes. The MPFA has acted as the Registrar of Occupational Retirement Schemes since 10 January 2000.

The MPFA may require an auditor to prepare a special report and/or require an actuary to prepare a special actuarial report if the MPFA:

- Receives a qualified actuarial certificate (a qualified actuarial certificate is issued by an actuary if the plan assets are not sufficient to meet the plan's aggregate vested liability or are not expected to be sufficient in the following 3 years);
- Receives a written request from the consultative committee formed by the plan members;
- Receives a written request signed by not less than 20% or 100, whichever is less, of the plan members;
- Reasonably believes that there exist, or existed, circumstances which may prejudice the interests of any plan members.

If the reports to be submitted to the MPFA are not submitted or if a report that was submitted justifies it, the MPFA may appoint a person to conduct an inquiry as regards the plan.

The MPFA may cancel the registration of a plan if the plan members' rights are in danger of being prejudiced and may apply to the High Court to order for the plan to be wound up, in which case a liquidator must be appointed.

Mandatory Provident Fund Schemes Authority
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Hong Kong
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Indonesia

Exchange rate: USD 1.00
equals 9,200 rupiah (IDR)

Regulatory Framework

2005: Decree No. 91/PMK.05; amends Decree No. 231/KMK.017 of 2002 that defines a framework for contributions and benefits under both defined contributions and defined benefit plans.

2005: Decree 113/PMK.05; amends Decree No. 510/KMK.06 of 2002 with regard to funding and solvability of employer pension funds.

2002: Decree No. 513/KMK.06; defines the requirements that administrators and members of the supervisory board of pension funds must fulfil.

2002: Decree No. 512/KMK.06; requires pension funds to be audited at least every 5 years and defines the procedures and content of that audit.

2002: Decree No. 511/KMK.06; defines quantitative and qualitative limits on the investment of pension fund assets and allows for these assets to be managed by financial institutions.

2002: Decree No. 510/KMK.06; stipulates how funding deficits or surpluses of an employer pension fund are to be treated and prescribes the content and form of actuarial reports, amended in 2005.

2002: Decree No. 509/KMK.06; prescribes the content and form of financial statements of pension funds to be submitted to the supervisory authority and requires these statements to be audited.

2002: Decree No. 231/KMK.06; defines a framework for contributions and benefits under both defined contribution and defined benefit plans, amended in 2005.

1992: Law No. 11 on Pension Funds; regulates the establishment and administration of complementary occupational pension plans and pension funds.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

A group of employers may establish a multi-employer plan if:

- They have similar business activities;
- They are members of the same group;
- This would increase the simplicity or efficiency of the plan.

In the case of a multi-employer plan, one employer must be the main sponsor and define the plan rules and be responsible for carrying out all legal requirements for sponsors. The other employers join the plan as co-sponsors.

Collective agreements are in many cases part of the process of establishing an employer-sponsored plan.

Banks or life insurance companies may, on a voluntary basis, establish financial institution pension plans.

Types of plans

Employer-sponsored plans: Plans sponsored by employers may be defined benefit or defined contribution and must be implemented through pension funds that are legal entities independent of the sponsoring employers.

While defined benefit plans may provide benefits either based on a pension accrual rate formula or a lump-sum formula (see section Benefit structure / formula), pension benefits (i.e. regular income stream) must be provided in both defined benefit and defined contribution plans.

Defined contribution plans may provide for contributions to be paid based on a fixed percentage of salary or on the profits of employers in a particular year (i.e. profit-based pension plan).

The establishment of a pension fund is subject to the approval by the Ministry of Finance. In order to

obtain the approval, the following documents must be submitted:

- The plan rules;
- The sponsoring employer's resolution stating the decision to sponsor the pension plan and to, accordingly, establish a pension fund;
- In the case of a multi-employer plan the co-sponsors' decisions to join the plan and their promise to comply with the plan rules;
- Details of the administrator, the members of the supervisory board of the fund and the custodian of fund assets;
- Investment directives governing the investment of fund assets (see section Asset management);
- An actuarial report in the case of defined benefit plans.

Upon approval, the plan rules are entered into the General Register of Pension Plans maintained by the Ministry of Finance.

It is not mandatory for covered employees to join a plan and participation cannot be made a condition of employment.

Financial institution plans: Plans established by financial institutions must be defined contribution and are open for the participation of any individual whether employed or not. If employees contribute to a financial institution plan and their employer pays a contribution to that plan, this contribution is paid in the name of the employee and does not establish any contract between the financial institution and the employer.

Financial institution plans are not covered further in the following sections.

Institutional Framework

Employer-sponsored plans: Pension funds are independent legal entities separate from the sponsoring employers.

The management of pension funds consists of an administrator and a supervisory board.

The administrator is appointed by the sponsoring employer and must:

- Be a citizen of Indonesia;
- Have a sound character;
- Not have been sentenced for criminal actions in the field of business;
- Have adequate knowledge and experience in the pension fund business;
- Have at least 3 years experience in a management position in finance and/or human resources.

Administrators are responsible for the implementation of plan rules and the management of the contribution and benefit administration, and represent the fund in court. Administrators may contract with third parties to adequately fulfil their tasks.

Administrators must not work for two different pension funds at the same time and must pass the examination conducted by the Institution of Profession Standard of Pension Fund (*Lembaga Standar Profesi Dana Pensiun*). This institution is established by the Association of Pension Funds.

The supervisory board must consist of an equal number of employer and employee (including retiree) representatives that must:

- Be citizens of Indonesia;
- Have a sound character;
- Not have been sentenced for criminal actions in the field of business;
- Not be the administrator of the fund.

The supervisory board is responsible for monitoring the administrator's management activities and must submit annual reports to the sponsoring employer on the results of its supervisory activities.

Coverage

Employer-sponsored plans: Private-sector employees.

There are no explicit legal rules concerning discrimination, but discrimination based on gender, age and category of an employee is implicitly prohibited by Law. The minimum legal age for joining a plan is 18, but this condition is waived for married employees.

Self-employed persons may become members of a

financial institution pension plan (see section Types of plans).

Financing / Investment

Sources of funds

Employer-sponsored plans: The annual total contribution to defined contribution plans by employers and employees must not exceed 20% of pensionable salary.

Employee contributions

Employer-sponsored plans: Plans may be contributory or noncontributory. Employee contributions must be defined in the plan rules for both defined benefit and defined contribution plans.

In the case of contributory defined benefit pension formula plans (see section Benefit structure / formula), the annual employee contribution rate must not exceed three times the accrual rate used in order to calculate the pension rights for the respective year.

In the case of contributory defined benefit lump-sum formula plans (see section Benefit structure / formula), the annual employee contribution rate must not exceed 3% of the multiple of pensionable salary used in order to calculate the rights for the respective year.

In the case of contributory defined contribution plans, the employee contribution must not exceed 60% of the employer contribution.

Employer contributions

Employer-sponsored plans: In the case of defined benefit plans, employer contributions are calculated based on the assets necessary to finance promised benefits and are defined in the actuarial report.

In the case of defined contribution plans (except profit-based defined contribution plans), the total employer and employee contribution rate must not exceed 20% of pensionable salary. Employer contributions must be defined in the plan rules.

Defined contribution plans may allow employer contributions to increase with the length of service or the age of an employee if:

- The increase in a contribution rate from a previous contribution rate is not higher than 25%;
- The difference between the highest and lowest contribution rates does not exceed 250%.

In the case of profit-based defined contribution plans, the employer contribution must be a percentage of yearly profits before tax, but must, even if the employer does not make profits, amount to at least 1% of pensionable salary. The formula for calculating employer contributions based on profits before tax must be defined in the plan rules.

Other sources of funds

Employer-sponsored plans: None.

Methods of financing

Employer-sponsored plans: Funded.

Asset management

Employer-sponsored plans: The fund assets may be managed by the administrator or may, with the approval of the sponsoring employer and the supervisory board, be contracted by the administrator to a financial institution that must hold a license issued by the Ministry of Finance to act as an asset manager. The contracting of the asset management to a financial institution does not remove the obligation of the administrator to ensure that pension fund investments comply with legal requirements.

The asset management must be in compliance with:

- The investment directives of the sponsoring employer (and the supervisory board in the case of defined contribution plans);
- The legal requirements for, and limits on, investments.

The investment directives must define the following issues:

- The target yearly investment returns;
- The maximum proportional limits on investments of fund assets in each investment type;
- The maximum proportional limits on investments of fund assets in any one party;

- Prohibited investments;
- Minimum liquidity provisions for the pension fund's investment portfolio;
- Provisions concerning the appointment of service providers for the investment of fund assets;
- Sanctions applied to the administrator in the case of noncompliance with the directives;
- An investment supervision and reporting system.

The investment directives of a pension fund must be approved by the Ministry of Finance as part of the approval process for the establishment of a fund (see section Types of plans). All amendments must be filed with the Ministry of Finance.

Pension fund assets must only be invested in the following securities:

- Time deposits and certificates of deposit issued by banks in Indonesia;
- Deposit on call issued by banks in Indonesia;
- Shares, bonds, and other securities listed on Indonesian stock exchanges (except options and warrants);
- Money market securities issued by a legal entity established under Indonesian laws that is not a sponsoring or co-sponsoring employer or an affiliate of a sponsoring or co-sponsoring employer but the interest payments of which are guaranteed by Indonesian commercial banks;
- Direct placements in shares or promissory notes of more than one-year term issued by a legal entity established under Indonesian laws;
- Land and/or buildings in Indonesia;
- Units of mutual funds as defined in the Capital Market Act;
- Certificates of the Bank of Indonesia;
- Marketable securities issued by the government of Indonesia.

The share of investments in the third, fourth and fifth type of assets enumerated above and in any party which experienced a financial loss in the previous year must not exceed the share of investments in the other assets.

Of total assets invested:

- A maximum of 20% may be in direct placements in shares and promissory notes as defined above;
- A maximum of 15% may be in land and buildings;
- A maximum of 10% may be in direct placements in shares and promissory notes issued by any one party;
- A maximum of 20% may be invested in any one party. This limit is not applicable to marketable securities issued by the Indonesian government or to investments in time deposits and certificates if the pension fund is in an area where only a few providers of these securities exist and where investment directives do not provide for other securities to invest in.

Pension funds must not borrow or pledge any of the fund assets as a guarantee against a loan.

With the exception of the assets of pension funds implementing profit-based defined contribution plans, fund assets must not be invested in securities issued, or in land and buildings owned, by:

- The administrator, a sponsoring or co-sponsoring employer or the custodian;
- Entities of which more than 25% of the shares are owned by a sponsoring or co-sponsoring employer, the custodian, administrator or labour unions whose members are plan members.

Pension funds implementing profit-based defined contribution plans may invest up to 50% of assets in the sponsoring and co-sponsoring employers.

Fund assets must be held by a custodian.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Employer-sponsored plans: A legal minimum waiting period of 1 year applies. While plan rules may provide for a longer waiting period, it is usually limited to 1 year.

The minimum legal age for joining a plan is 18, but this condition is waived for married employees.

Vesting rules

Employer-sponsored plans: Employee contributions vest immediately. Employer contributions vest after 3 years of plan membership.

Employees who leave a contributory plan after less than 3 years of membership receive a refund of their own contributions plus interest (corresponding to the interest payable on a time deposit of a state-owned bank).

Preservation, portability, transferability

Employer-sponsored plans: Upon terminating employment before the earliest possible retirement age, employees participating in a plan may:

- Opt for the accrued benefits to be transformed into a deferred pension to be paid by the former employer's pension fund;
- Transfer the present value of accrued benefits to a financial institution pension fund;
- Transfer the present value of accrued benefits to the pension plan of the new employer.

There are no legal rules concerning the calculation of the present value of accrued benefits in the case of defined benefit plans. In the case of defined contribution plans, the accrued benefits must amount to employer and employee contributions plus investment returns.

There are no legal rules concerning indexation of deferred pensions before retirement.

Retirement benefits

Benefit qualifying conditions

Employer-sponsored plans: The normal, early and deferred retirement ages must be defined in the plan rules. The normal retirement age must be between age 55 and 60 and is usually age 55. The early retirement age must be 10 years before the normal retirement age.

Benefit structure / formula

Employer-sponsored plans: Defined benefit or defined contribution.

While defined benefit plans may provide for benefits to be calculated based either on a pension accrual rate formula (pension formula plans) or a lump-sum formula (lump-sum formula plans), pension benefits (regular income stream) must be provided in both defined benefit and defined contribution plans. In the case of defined benefit pension formula plans, the pension benefit accrues as a percentage of pensionable salary. In the case of defined benefit lump-sum formula plans, the benefit accrues as a multiple of monthly pensionable salary and the pension benefits upon retirement must be calculated according to actuarial conversion factors.

The yearly pension accrual rate in the case of defined benefit pension formula plans must not exceed 2.5% of pensionable salary with a maximum career accrual of 80%. The yearly multiple of monthly pensionable salary in the case of defined benefit lump-sum formula plans must not exceed 2.5 with a maximum career accrual of 80 times monthly pensionable salary. Pensionable salary must be defined in the plan rules and no maximum legal limit applies.

The accrual rates and multiples of pensionable salary may increase with the length of service or the age of an employee if:

- The increase in an accrual rate or multiple of pensionable salary does not exceed 25% of the previous rate or salary;
- The difference between the lowest and highest accrual rate or the multiple of pensionable salary does not exceed 250%.

The pension fund may, instead of providing benefits itself, buy annuities from a life insurance company.

In the case of defined contribution plans, the accumulated capital consists of contributions and investment income. Upon retirement, the administrator must use the accumulated capital to buy a life annuity from a life insurance company chosen by the employee. A survivor annuity must be purchased for married employees.

Only life insurance companies may provide annuity services.

Under both defined benefit and defined contribution

plans, plan rules may provide for 20% of the benefit value to be commuted to a lump sum upon retirement.

If the monthly pension from a defined benefit pension formula plan amounts to less than IDR 750,000, the cash value of the pension rights may be paid as a lump sum. If the rights under a defined benefit lump-sum formula plan or the accumulated capital under a defined contribution plan amount to less than IDR 100 million, this amount may be paid as a lump sum.

Pensions or annuities must be paid on a monthly basis.

There are no legal requirements for occupational pension plans to be integrated with the social security scheme.

Benefit adjustment

Employer-sponsored plans: Plan rules may provide for benefits to be indexed to prices.

Survivors

Employer-sponsored plans: Spouses' and orphans' pensions must be provided.

In the case of defined benefit plans, if a pensioner dies, the spouse must be paid at least 60% of the deceased's pension. If an employee dies in service, the survivor pension payable must amount to at least 60% of the accrued benefit at the time of death. If an employee dies in service more than 10 years before normal retirement age, the accrued pension under defined benefit pension formula plans may be commuted to a lump sum and the accrued lump sum under a defined benefit lump-sum formula plan may be paid.

In the case of defined contribution plans, annuities purchased upon retirement must provide for survivor benefits if the employee was married at retirement. If an employee dies in service, the accumulated capital must be used to buy an annuity on behalf of the survivors. If an employee dies in service more than 10 years before the normal retirement age, the accumulated capital may be paid as a lump sum.

If there is no eligible spouse or after the death of the eligible spouse, the same benefits must be paid to orphans younger than age 25.

Disability

Employer-sponsored plans: Disability benefits must be provided.

Disability is legally defined as the total and permanent inability to carry out any substantially gainful employment corresponding reasonably to an individual's education, skill and experience.

The disability benefit amounts to the accrued benefit at the time a person becomes disabled and is generally payable as a pension. However, if the monthly disability pension from a defined benefit pension formula plan would amount to less than IDR 750,000, the present value of the disability pension may be paid as a lump sum. If the accrued rights under a defined benefit lump-sum formula plan or the accumulated capital under a defined contribution plan amount to less than IDR 100 million, this amount may be paid as a lump sum.

Protection of Rights

Protection of Assets

Employer-sponsored plans: Pension funds are independent legal entities and fund assets must be completely separate from the assets of the sponsoring and co-sponsoring employers.

Fund assets must be held by a custodian.

Financial and Technical Requirements / Reporting

Employer-sponsored plans: The administrator of a pension fund must submit audited annual reports to the Ministry of Finance that must consist of:

- Information on the financial situation of the pension fund (including the financial statement and the auditor's opinion);
- An investment portfolio statement.

The financial statement must consist of:

- A net asset report (assets less liabilities) including changes thereof;

- A balance sheet;
- An income statement;
- A cash flow statement.

The investment portfolio statement must consist of:

- Confirmation of compliance with legal requirements for investments;
- Confirmation of compliance with the investment directives.

The investment portfolio statement is not required if pension fund assets are only invested in:

- Time deposits and certificates of deposit;
- Shares, bonds and other securities listed on an Indonesian stock exchange (except options and warrants).

The sponsoring and co-sponsoring employers are responsible for ensuring that pension funds are fully funded and must make additional contributions if funding deficits exist.

In the case of defined benefit plans, actuarial reports must be prepared and submitted to the Ministry of Finance at least every 3 years. These reports must clarify:

- The contributions necessary to finance promised benefits;
- The funding level;
- The amount of additional employer contributions in the case of funding deficits.

Statements signed by the sponsoring and co-sponsoring employers certifying that they recognize the funding level and confirming their capacity to make contributions as defined in the actuarial report must be attached to the actuarial reports. In the case of deficit, employers must make additional contributions in order to restore a fully funded position within a reasonable period of time.

Whistleblowing

Employer-sponsored plans: No legal rules.

Standards for service providers

Employer-sponsored plans: Custodians must be banks as defined in the Banking Act.

Auditors must be employed by a public accounting office. The auditor examining the financial situation of the fund must be from a different public accounting office than the auditor examining the investment portfolio.

Actuaries of pension plans must have adequate education and experience and must work for an actuarial consulting company which holds a license issued by the Minister of Finance.

Fees

Employer-sponsored plans: No legal rules.

Winding up / Merger and acquisition

Employer-sponsored plans: Pension funds may be wound up voluntarily upon request by the sponsoring employers, through an order of the Ministry of Finance or upon dissolution of the sponsoring employers.

The Minister of Finance must appoint a liquidator to manage the liquidation of a pension fund. Any return of fund assets to the sponsoring employers upon liquidation is prohibited and any funding surpluses must be used to increase benefits.

The rights of members and retirees have priority upon the distribution of the assets of liquidated pension funds.

Pension funds may merge or be split into two or more funds subject to the approval of the Ministry of Finance.

Bankruptcy: Insolvency Insurance / Compensation Fund

Employer-sponsored plans: There is no requirement for funds to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

Employer-sponsored plans: The following information must be disclosed at least twice a year to plan members:

- Balance sheets and operating statements;
- Benefit statements;
- Changes to the plan rules;
- Investment portfolio development and investment results.

The administrator of a pension fund must establish a system that allows members to comment on the investment portfolio development and the results of the investment of pension fund assets. The administrator must also establish a procedure for members to complain about any of its actions. Every complaint must be discussed jointly by the administrator and the supervisory board.

Other measures

Employer-sponsored plans: Amendments to plan rules must be approved by the Ministry of Finance and must not reduce pension rights accrued in the past.

Tax Treatment

Taxation of employee contributions

Employer-sponsored plans: Tax-deductible if the plan's contribution and benefit rules are in compliance with the legal limits on contributions and benefits (see sections Sources of funds and Benefit structure / formula).

Taxation of employer contributions

Employer-sponsored plans: Tax-deductible if the plan's contribution and benefit rules are in compliance with the legal limits on contributions and benefits (see sections Sources of funds and Benefit structure / formula).

Taxation of investment income

Employer-sponsored plans: The following types of investment income are tax-exempt:

- Interest and discount from time deposits, certificates of deposit and savings including certificates from the Bank of Indonesia;
- Interest from bonds traded on an Indonesian stock exchange;
- Dividends from companies listed on an Indonesian stock exchange.

Other investment income is taxed as corporate income (tax rate is 10% for the part of the income below IDR 50 million, 15% for the part of the income between IDR 50 million and IDR 100 million, and 30% for the part of the income above IDR 100 million).

Taxation of benefits

Employer-sponsored plans: Pension benefits are taxed at personal income tax rates that range from 5% to 35%.

Lump-sum benefits are tax-exempt if the amount is below IDR 25 million. Otherwise they are taxed at the rates of 5% for the part of the lump sum between IDR 25 million and IDR 50 million, 10% for the part between IDR 50 million and IDR 100 million, 15% for the part between IDR 100 million and IDR 200 million and 25% for the part of the lump sum exceeding IDR 200 million.

Regulatory and Supervisory Authorities

Ministry of Finance: Approves and supervises pension funds.

The Ministry of Finance regularly audits a certain number of pension funds. The pension funds to be audited are selected after an assessment of the risks related to each pension fund based on the regular reports submitted by the fund administrator and other relevant sources of information. The audit consists of the collection and evaluation of information on a pension fund in order to determine whether:

- The periodical reports submitted by a fund are correct;
- A fund complies with legal requirements;
- The organizational structure of a fund is effective and efficient.

These audits can also be carried out on an ad hoc basis if there are reasonable grounds for the supervisory

authority to believe that a pension fund does not comply with legal requirements.

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Israel

Exchange rate: USD 1.00
equals 4.50 new shekels (ILS)

Regulatory Framework

2005: Control of Financial Services (Provident Funds) Law; provides for the authorization and supervision of pension management companies and provident fund management companies.

2005: Control of Financial Services (Insurance) Law; provides for the authorization and supervision of insurance and pension management companies.

2005: Control of Financial Services (Pension Counselling and Pension Marketing) Law; supervises the work of councillors in the field of pension.

1999: Income Tax Regulations Amendment No. 2; introduces plans implemented through nonsubsidized pension funds.

1997: Directives of the Supervisor of the Capital Market, Insurance, and Savings for the Establishment and Management of New Pension Funds; introduce plans implemented through subsidized pension funds, regulate their administration, and contain minimum requirements concerning benefits.

1964: Income Tax Regulations; provide for the approval and supervision of pension and provident funds, establish rules for the protection of rights.

Income Tax Ordinance; regulates the tax treatment of employee and employer contributions and benefits.

Different legal rules apply to pension funds first authorized before 1995 (known as old pension funds). These funds have not been permitted to accept new members since 1 January 1995, and are not covered in the following sections.

Plan Profile

Plan sponsors

Pension management companies and insurance companies may establish complementary pension plans and offer them to employers.

Employers may, on a voluntary basis, affiliate some or all of their employees to such a plan. The affiliation and the promise to make contributions may be based on agreements between employers and individual employees or on company or industry-wide collective agreements with trade unions.

The choice of the pension management company or insurance company to which the employee is to be affiliated is made by the employee. Employees have, depending on plan rules, considerable choice concerning the benefit package that provides different replacement rates for disability, survivor and old-age pensions.

Types of plans

Subsidized pension funds: Pension management companies may establish pension plans implemented through subsidized pension funds. These plans must provide old-age, disability, and survivor benefits and cover the part of the salary up to twice the national average salary. Pension plans implemented through subsidized pension funds may be defined benefit or defined contribution and must invest 30% of their assets in government bonds providing a guaranteed real rate of return (see section Asset management).

The establishment of subsidized pension funds is subject to the approval of the Commissioner of the Capital Market, Insurance, and Savings (CCMIS). In addition, tax approval must be obtained from the CCMIS for each tax year.

Subsidized pension funds must have at least 1,500 members within 2 years of their approval.

Nonsubsidized pension funds: Pension management companies may establish pension plans implemented through nonsubsidized pension funds. These plans must be defined contribution and

provide at least old-age benefits. There is no ceiling on covered salary and plans may be an alternative to a plan implemented through a subsidized fund or complementary to such a plan for the part of the salary exceeding twice the national average salary. Investment in government bonds providing a guaranteed real rate of return is not possible.

The establishment of nonsubsidized pension funds is subject to the approval of the CCMIS. In addition, tax approval must be obtained from the CCMIS for each tax year.

Nonsubsidized pension funds must have at least 1,500 members within 5 years of their approval.

Provident funds: Provident fund management companies and insurance companies may establish provident plans that are implemented through provident funds. Provident plans are defined contribution and provide one or several lump-sum payments at retirement. Disability and survivor benefits provision is voluntary and are not usually provided.

The establishment of provident funds is subject to the approval of the CCMIS. In addition, tax approval must be obtained from the CCMIS for each tax year.

Executive insurance: Insurance companies may establish plans (known as executive insurance plans) that are implemented through life insurance policies.

Insurance companies must obtain yearly tax approval for their life insurance policies from the CCMIS.

All plans: Participation is voluntary for covered employees. Additional voluntary contributions are prohibited.

Institutional Framework

Subsidized and nonsubsidized pension funds: Pension management companies (PMCs) manage the contribution and benefit administration.

PMCs must be established as limited joint-stock companies with the single business aim of establishing and managing pension plans and the corresponding funds.

PMCs must obtain an insurance company license from the Commissioner of the Capital Market, Insurance, and Savings (CCMIS). Minimum capital requirements apply.

Each PMC must be governed by a board of directors of which at least two members (known as public directors) must not be members of one of the plans established by the company. All directors and officers of the company must have adequate qualifications.

The board of directors may delegate its powers to committees consisting of at least three of its members. One member of each committee must be a public director.

The board of directors must appoint the following committees:

- Audit committee (of which all public directors must be members);
- Investment committee;
- Balance sheet committee to discuss and approve financial statements and actuarial reports.

Each PMC may establish one defined contribution plan, implemented through a subsidized fund, and one defined contribution plan, implemented through a nonsubsidized fund. PMCs must establish separate pension funds for each of their plans and maintain a separate bookkeeping and actuarial system for each fund.

Provident funds: Provident fund companies and insurance companies manage the contribution and benefit administration.

Provident fund companies and insurance companies must be licensed by the CCMIS.

Executive insurance: Insurance companies manage the contribution and benefit administration.

Insurance companies must be licensed by the CCMIS.

Coverage

All plans: Private- and public-sector employees.

Subsidized pension funds cover the part of the salary up to twice the national average salary.

There are no legal rules concerning discrimination in coverage. Employees with low salary or part-time employees are usually excluded.

Self-employed persons may affiliate voluntarily to a plan on a personal basis.

Subsidized pension funds: These plans cover the part of the salary up to twice the national average salary.

Financing / Investment

Sources of funds

Employee contributions

All plans: Employees are required to contribute.

Subsidized pension funds: The maximum contribution is 7% of the part of the salary up to twice the national average salary.

Nonsubsidized pension and provident funds and executive insurance: The maximum contribution is 7% of salary without ceiling.

Executive insurance: Employees must match their employer's contributions, up to a maximum of 5%.

Employer contributions

All plans: Employers are required to contribute.

Subsidized pension funds: The maximum contribution is 7.5% of the part of the salary up to twice the national average salary.

Nonsubsidized pension and provident funds and executive insurance: The maximum contribution is 7.5% of salary without ceiling.

Executive insurance: Employers may contribute a 2.5% of the salary in addition to the 7.5% limit above for contributions to purchase disability insurance for their employees.

Other sources of funds

All plans: None.

Methods of financing

All plans: Funded.

Asset management

Subsidized pension funds: The pension management company (PMC) manages fund assets.

Thirty per cent of net monthly accrual (i.e. monthly accrual less management fees plus interest) must be invested in earmarked government bonds that provide a guaranteed real rate of return of 4.86% and that are only issued to subsidized pension funds.

In addition, 70% of remaining total assets are invested in accordance with the instructions below concerning provident funds.

A subsidized pension fund is allowed to issue loans to members subject to the following conditions:

- Total loans must not exceed 5% of fund assets;
- The loan must not exceed 90% of the cash value of the member's accrued rights or accumulated capital;
- Members must not take a loan in the first 3 years of membership;
- The maximum term of the loan must be 5 years;
- The loan must bear interest no lower than the rate that the fund earns on its investments.

Nonsubsidized pension and provident funds: The PMC, and also the insurance company in the case of provident funds, manage the assets.

The assets in which pension funds can invest are classified into three groups with different investment risk. Of total assets invested:

- At least 50% must be in government bonds, treasury bills or short-term deposits (this requirement may be lowered to a minimum of 40% under certain circumstances);
- A maximum of 50% may be in tradable securities (e.g. shares or corporate bonds);
- A maximum of 30% may be in long-term index deposits, nontradable shares or corporate bonds, and real estate.

Nonsubsidized pension and provident funds are

allowed to issue loans to members subject to the following conditions:

- Total loans must not exceed 5% of fund assets;
- The loan must not exceed 50% of the cash value of the member's accrued rights or accumulated capital.

Executive insurance: The insurance company manages the assets.

Of total assets invested:

- At least 50% must be in government securities;
- A maximum of 50% may be in bonds traded on the Tel Aviv Stock Exchange;
- A maximum of 25% may be in deposits, loans, or nontradable bonds;
- A maximum of 15% may be in shares;
- A maximum of 15% may be in income-generating real estate.

Members may take a loan from the insurance company under conditions set out in the insurance company's regulations.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans: No legal rules.

Vesting rules

All plans: Employee contributions vest immediately.

Vesting of employer contributions depends on the agreements between employers and employees or trade unions (see section Plan sponsors) and there is no legally prescribed vesting period.

Preservation, portability, transferability

Subsidized and nonsubsidized pension funds: Upon termination of employment before retirement, members may either transform their accrued rights or accumulated capital into deferred pension rights or receive a withdrawal benefit equal to the vested employer and their own contributions less management fees. The contributions must be adjusted for the calculation of the withdrawal benefit:

- In line with the consumer price index (CPI) if membership lasted less than 5 years;
- In line with the CPI plus interest of 1.5% per year if membership lasted from 5 up to 15 years;
- In line with the CPI plus interest of 2% per year if membership lasted more than 15 years.

Preserved rights must be indexed to the CPI.

Provident funds: Upon termination of employment before retirement, members receive their own and the vested employer contributions as a lump sum.

Executive insurance: Upon termination of employment before retirement, the insurance policy may be partly or fully surrendered.

Retirement benefits

Benefit qualifying conditions

All plans: Benefits may be paid from age 67 (men) or age 60 (women).

Early retirement is allowed for men from age 60.

Benefit structure / formula

Subsidized pension funds: Defined benefit or defined contribution.

In the case of defined benefit plans, the old-age pension equals the sum of each year's product of the annual/monthly accrual rate and the member's covered salary during that year. The covered salary must not exceed twice the average national salary. Each year's product must be indexed to the Consumer Price Index from the relevant year to the date of retirement. The accrual rate depends on the benefit package chosen by the employee. An increased disability benefit will result in a lower accrual rate for the old-age pension.

In the case of defined contribution plans, the old-age pension is the product of the accrued amount accumulated by the member at retirement and a factor calculated based on the member's age at retirement, sex and date of birth, and yearly returns, mortality tables, etc.

Early retirement benefits are actuarially reduced.

Benefits must be paid as pensions, but retirees whose pension is less than the minimum pension regulated in the plan rules receive the cash value of their accrued rights or accumulated capital as a lump sum.

Twenty-five per cent of a maximum of 5 years' pension payments may be commuted to a lump sum provided that the reduced pension is not lower than the minimum pension defined in the plan rules.

If, at retirement, members have no spouse and no children younger than age 21, they may cease being covered for the risk of death and receive an increased old-age pension.

Nonsubsidized pension funds: Defined contribution.

There is no ceiling on covered salary.

The old-age pension is the product of the accrued amount accumulated by the member at retirement and a factor calculated based on the member's age at retirement, sex and date of birth, yearly returns, mortality tables, etc.

Provident funds: Defined contribution.

The retiree's accumulated capital is paid as a lump sum at retirement or as several lump sums of equal or different amounts.

Executive insurance: Defined contribution.

The retiree's accumulated capital may be paid as a lump sum at retirement or as an annuity according to the terms defined in the insurance policy.

Benefit adjustment

All plans: No legal rules.

Survivors

Subsidized pension funds: Survivor benefits must be provided according to plan rules.

If the total survivor pension is less than the minimum pension stipulated in the plan rules, survivors receive the cash value of the deceased member's accrued rights or accumulated capital as a lump sum.

If an old-age pensioner dies before having received 60 monthly pension payments, the fund must pay 100% of the member's old-age pension to the eligible survivors for the remainder of the 60 months.

If the old-age pensioner dies after having received 60 but before 120 monthly pension payments, or after 120 but before 180 monthly pension payments, the full pension continues to be paid for the remainder of the 120 months or 180 months respectively.

Nonsubsidized pension funds: The provision of survivor benefits is voluntary.

If survivor benefits are provided, the same rules apply as for subsidized pension funds.

Provident funds: The provision of survivor benefits is voluntary.

Survivor benefits are not usually provided. When provided, survivors receive the deceased member's accumulated capital as a lump sum.

Executive insurance: The provision of survivor benefits is voluntary.

Survivors usually receive a lump sum, the amount of which depends on the savings in the policy and the type of the policy.

Disability

Subsidized pension funds: Disability benefits must be provided.

Full disability benefits are payable to members with a reduced earnings capacity of at least 75% and partial disability benefits with a reduced earnings capacity of at least 25%.

Disability pensioners continue to accrue old-age benefits, but they are exempt from making contributions.

Nonsubsidized pension funds: The provision of disability benefits is voluntary.

If disability benefits are provided, the same rules as for subsidized pension funds apply.

Provident funds: Disability benefits are not provided.

Executive insurance: The provision of disability benefits is voluntary.

Employers may make additional voluntary contributions to provide for disability insurance for their employees (see section Sources of funds, Employer contributions).

If disability insurance is provided, a full disability pension usually of 75% of the disabled member's salary is paid after a waiting period of between 3 and 12 months.

Depending on the policy, disability pensioners may continue to accrue old-age benefits and be exempt from making contributions.

Some policies also provide disability benefits in the case of a partial loss of earnings capacity (i.e. reduction in earnings capacity of 50%).

Protection of Rights

Protection of Assets

Subsidized and nonsubsidized pension funds: Pension management companies must hold pension fund assets separate from their own assets.

Provident funds: Provident fund management companies must hold provident fund assets separate from their own assets. Insurance companies must hold insured assets separate from their own assets.

Executive insurance: Insurance companies must hold insured assets separate from their own assets.

Financial and Technical Requirements / Reporting

Subsidized and nonsubsidized pension funds: Pension management companies (PMCs) must, for each pension fund managed, prepare the following:

- Monthly financial statements including a cash flow report;
- Quarterly reports containing a list of assets and a rate of return report;
- Yearly reports containing audited financial statements and actuarial balance sheets prepared by the actuary.

PMCs must appoint an auditor and an actuary.

The Commissioner of the Capital Market, Insurance, and Savings (CCMIS) may make any remarks on deficiencies or request any clarifications.

Provident funds: Provident fund management companies must, for each provident fund managed, prepare:

- Monthly financial statements including a cash flow report;
- Quarterly reports containing a list of assets and a rate of return report;
- Yearly reports containing audited financial statements.

Provident fund management companies must appoint an auditor.

The CCMIS may make any remarks on deficiencies or request any clarifications.

Executive insurance: Financial and technical requirements and requirements for regular reporting to the CCMIS of insurance companies are defined in the legislation governing insurance companies.

Whistleblowing

All plans: No legal rules.

Standards for service providers

All plans: Auditors must be certified public accountants and hold a license from the Auditors' Council.

While the applicable legislation sets out detailed actuarial bases and methods that must be used, there are no legal rules concerning who is entitled to be an actuary. Actuaries appointed to carry out actuarial examinations are usually members of the Israel Actuarial Association.

Fees

Subsidized and nonsubsidized pension funds: Pension management companies (PMCs) may charge a maximum of 6% of contributions and a maximum of 0.5% of accumulated savings.

Provident funds: Provident fund management companies may charge a maximum of 2% of the asset value. The management fees that insurance companies may charge are defined in the legislation governing insurance companies.

Executive insurance: The management fees that insurance companies may charge are defined in the legislation governing insurance companies.

Winding up / Merger and acquisition

Subsidized and nonsubsidized pension funds: Plans must be wound up if the minimum membership requirements (see section Types of plans) are not fulfilled.

If all plans of a pension management company (PMC) fail to meet the minimum membership requirements, the management company's license is revoked and it must be wound up.

Provident funds: The winding up of provident plans and provident fund management companies is subject to legislation governing provident funds.

Executive insurance: The winding up of insurance companies is subject to legislation governing insurance companies.

Bankruptcy: Insolvency Insurance / Compensation Fund

Subsidized and nonsubsidized pension funds: As long as a pension plan has not reached the required minimum membership of 1,500 the pension management company (PMC) must reinsure disability and survivor benefits with an insurance company. The reinsurance policy must be submitted yearly to the Commissioner of the Capital Market, Insurance, and Savings (CCMIS) for approval.

All plans: There are no other requirements for plans to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

Subsidized and nonsubsidized pension funds: Members must be provided with an annual report including at least:

- A presentation of basic information and financial data concerning the member (e.g. contributions and accrued rights or accumulated capital);
- A statement of pension fund assets and investment performance including information on management fees;
- A form on which the member may update or correct personal information;
- Explanations of the information included in the report.

Provident funds: Provident fund management companies must provide members with an annual report regarding their accumulated capital. Insurance companies must disclose annually information on the insurance policy and surrender values to members.

Executive insurance: Insurance companies must disclose annually information on the insurance policy and surrender values to members.

All plans: Members may complain to a consumer ombudsman who is responsible for resolving disputes. The ombudsman investigates complaints and instructs the correction of deficiencies.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

All plans: Employees receive a tax credit of 25%, or 35% in case of subsidized pension funds, of their contributions provided that the contribution rate do not exceed 7% of the part of the salary up to the national average salary.

Taxation of employer contributions

Subsidized and nonsubsidized pension funds: Tax-exempt up to 7.5% of the part of the salary up to twice, or four times for nonsubsidized pension funds, the national average salary.

Provident funds: Tax-exempt up to 7.5% of the part of the salary up to the national average salary.

Executive insurance: In case of annuity type insurance policies, contributions are tax-exempt up to 7.5% of the part of the salary up to four times the national average salary.

In case of lump-sum type insurance policies, contributions are tax-exempt up to 7.5% of the part of the salary up to the national average salary.

Voluntary disability insurance contributions are tax-exempt.

Taxation of investment income

Subsidized and nonsubsidized pension funds: Tax-exempt.

Provident funds: Investment income is taxed at a rate of 20%.

Executive insurance: Tax-exempt in case of annuity type insurance policies. Taxed at a rate of 20% in case of lump-sum type insurance policies.

Taxation of benefits

Subsidized and nonsubsidized pension funds and executive insurance: 35% of the value of pension benefits is tax-exempt.

All plans: Lump-sum benefits are tax-exempt.

Regulatory and Supervisory Authorities

Commissioner of the Capital Market, Insurance, and Savings: Supervises pension management and insurance companies, subsidized and nonsubsidized pension funds and provident funds.

The Commission of the Capital Market, Insurance, and Savings (CCMIS) receives and verifies reports submitted by supervised entities and may carry out on-site inspections at any time.

The CCMIS is part of the Ministry of Finance.

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Regulatory Framework

2001: Defined Benefit Occupational Pensions Act; provides for the establishment of two new types of plans from 1 April 2002, namely fund-type and contract-type defined benefit plans; stipulates that no new tax qualified pension plans are approved from that date and that all existing tax qualified pension plans must be wound up or transformed into other occupational pension plans by 31 March 2012.

2001: Defined Contribution Occupational Pensions Act; introduces for the first time the possibility to establish defined contribution plans and provides for the establishment of both occupational and personal defined contribution plans.

1965: Amendment of the Employees' Pension Insurance Act of 1944; introduces the possibility to establish occupational pension plans implemented through Employees' Pension Funds that partially substitute benefits provided under the publicly managed Employees' Pension Insurance; requires these plans to provide benefits worth at least 50% of the substituted benefits, and regulates the establishment and operation of Employees' Pension Funds.

1962: Corporate Tax Act; provides for the establishment of tax qualified pension plans and stipulates the requirements that these plans must meet.

Plan Profile

Plan sponsors

Single, or a group or association of, employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

Occupational pension plans are usually based on pension contracts between employers and employees resulting from collective bargaining.

Types of plans

Employees' pension funds: Employers may establish occupational pension plans implemented through employees' pension funds (EPFs) to partially contract out of the public earnings-related pension scheme (i.e. employees' pension insurance - EPI). These plans partially substitute EPI benefits and a rebate in the total employer and employee contribution to the EPI of between 2.4 and 5% is granted. The exact rebate within that range is determined separately for each plan by the Ministry of Health, Labour and Welfare (MHLW).

Three types of EPFs may be established:

- Single-employer funds implementing plans sponsored by one employer that must have at least 1,000 full-time employees as members;
- Allied-employer funds implementing plans sponsored by several employers belonging to the same group that must have at least 1,000 full-time employees as members;
- Multi-employer funds implementing plans sponsored by associations of employers (established on a regional or trade basis) and that must have at least 5,000 full-time employees as members.

The establishment of EPFs is subject to the approval of the (MHLW) which may only be granted if:

- At least one-half of the full-time employees of a sponsoring employer have voted in favour of establishing the fund (and thereby of partially contracting out of the EPI);
- Where a union represents at least one-third of the employees of a sponsoring employer, it has approved the establishment of the fund;
- Benefits of at least 50% of the substituted part of the EPI benefits are provided.

While the structure of benefits that substitute EPI benefits (i.e. substitution benefits) is strictly regulated, the additional benefits, which must be worth at least 50% of the substitution benefits, can be designed rather flexibly.

Fund-type defined benefit plans: These defined benefit plans may be established by employers, singly or as a group, and must be implemented through the establishment of a pension fund.

The structure of fund-type defined benefit plans is similar to that of plans implemented through EPFs, however, the former do not substitute EPI benefits and are strictly complementary to the EPI.

Each plan must be based on a pension contract concluded between the sponsoring employer(s) and their employees and must, among other things, regulate contribution rates, benefit qualifying conditions and benefit structure / formula.

The sponsoring employer(s) must obtain the approval of the MHLW for the establishment of a pension fund.

Contract-type defined benefit plans: These defined benefit plans may be established by employers, singly or as a group, and must be implemented through a contract with a trust bank or life insurance company.

Each plan must be based on a pension contract concluded between the sponsoring employer(s) and their employees and must, among other things, regulate contribution rates, benefit qualifying conditions and benefit structure / formula. The plan must form part of the contract with the trust bank or life insurance company.

The sponsoring employer(s) must obtain the approval of the MHLW for the contract with the trust bank or life insurance company.

Tax qualified pension plans: These defined benefit plans may be established by single employers and must be implemented through a contract with a trust bank or life insurance company.

Each plan must be based on a pension contract concluded between the sponsoring employer and its employees.

The sponsoring employer must obtain the approval of the National Tax Administration (NTA) for the plan and the contract with the trust bank or life insurance company. In order to be approved, plans must:

- Provide for actuarial reviews to be carried out at least every 5 years;
- Have at least 15 members;
- Provide for pensions not to be paid to plan members with less than a certain length of plan membership;
- Not include provisions discriminating unfairly between full-time employees.

No new tax qualified pension plans are approved by the NTA. All existing plans must be either wound up or transformed into other occupational pension plans by 31 March 2012.

Corporate-type defined contribution plans: These defined contribution plans may be established by employers, singly or as a group, and must be implemented through a contract with a pension management organization.

Each plan must be based on a pension contract concluded between the sponsoring employer(s) and their employees. Members must be allowed to influence the management of their assets and rights must be fully transferable to defined contribution plans of other employers.

Plans must be approved by the MHLW.

Personal-type defined contribution plans: Self-employed persons or employees of an employer that does not sponsor an occupational pension plan may become members of a personal defined contribution plan established and managed by a public body, the National Pension Fund Association (NPFA). The NPFA is a separate organization and should not be confused with the Pension Fund Association (PFA).

If the employer establishes a corporate-type defined contribution plan or, after changing employers, the new employer sponsors such a plan, the personal pension plan member's accumulated capital must be transferred to the corporate-type plan.

Further information on these personal plans is limited to the extent to which they interact with occupational pension plans.

Retirement allowance plans: Employers may establish retirement allowance plans that do not need to be approved by any government authority and are

not regulated.

These plans are usually implemented through the establishment of book reserves and provide a lump sum at retirement. Retirement allowance plans are not covered further in the following sections.

All plans: Participation is mandatory for employees covered by plans implemented through EPFs. In the case of other types of plans pension contracts must stipulate whether participation is voluntary or compulsory for covered employees.

Employers may establish one or several of the various types of plans. A defined benefit plan may, for instance, be topped up by a defined contribution or a retirement allowance plan.

All plans must provide old-age benefits while the provision of disability and survivor benefits is voluntary.

Additional voluntary contributions are not permitted.

Institutional Framework

Employees' pension funds and fund-type defined benefit plans: All pension funds are independent legal entities governed by a management committee consisting of an equal number of employer and employee representatives.

The management committee may manage the contribution and benefit administration in-house or contract it to a trust bank or life insurance company. The management committee of an employees' pension fund (EPF) may also contract it to the Pension Fund Association (PFA) - see section Regulatory and supervisory authorities).

Contract-type defined benefit and tax qualified pension plans: Plans must be established through a contract with a trust bank or life insurance company.

The trust bank or life insurance company is responsible for the management of the contribution and benefit administration.

Corporate-type defined contribution plans: Plans must be established through a contract with a pension management organization that manages the contribution and benefit administration. The procedure for selecting the management organization must be regulated in the pension contract between employers and employees. Any company may act as a pension management organization provided that it is incorporated and registered with the Ministry of Health, Labour and Welfare (MHLW). There are no legal requirements concerning their internal governance structure or the fitness and propriety of their directors.

Coverage

All plans except employees' pension funds and personal-type defined contribution plans: Private-sector employees. Full-time employees are eligible for plan membership and there must not be any unfair discrimination between different groups of full-time employees.

There are no legal rules concerning discrimination between full-time and part-time employees and part-time employees are often not covered.

The maximum age for joining a plan is 59.

Self-employed persons are not covered. Civil servants and public-sector employees are covered by separate employment-related plans.

Employees' pension funds: Private-sector employees covered by the employees' pension insurance (i.e. private-sector employees in trade and industry). Membership is mandatory for employees whose employers have established employees' pension funds.

The maximum age for joining a plan is 70.

Self-employed persons are not covered. Civil servants and public-sector employees are covered by separate employment-related plans.

Personal-type defined contribution plans: Self-employed persons and private-sector employees whose employers do not sponsor any occupational pension plan may join the personal defined contribution plan established and administered by the National Pension Fund Association (NPFA).

Financing / Investment

Sources of funds

Employee contributions

Employees' pension funds: Contribution rates are determined by plan rules.

Employees contribute one-half of total contributions financing substitution benefits and usually less than one-half of total contributions financing additional benefits (see section Type of plans).

Fund-type and contract-type defined benefit and tax qualified pension plans: Contribution rates are determined by plan rules.

Employees do not usually contribute. Plans may provide for employee contributions but they are subject to the employee's individual agreement.

Corporate-type defined contribution plans: Employee contributions are prohibited.

Employer contributions

Employees' pension funds: Contribution rates are determined by plan rules.

Employers contribute one-half of total contributions financing substitution benefits and usually more than one-half of total contributions financing additional benefits (see section Type of plans).

Fund-type and contract-type defined benefit and tax qualified pension plans: Contribution rates are determined by plan rules.

Employers usually pay the total contribution.

Corporate-type defined contribution plans: Employers pay the total contribution.

The maximum monthly contribution is JPY 46,000 if the member is not covered by other occupational plan and JPY 23,000 if covered.

Other sources of funds

All plans except Employees' Pension Funds: None.

Employees' pension funds: A rebate in the total employer and employee contribution to the employees' pension insurance (EPI) of between 2.4 and 5% is granted. The rebate finances substitution benefits and the exact amount for each plan is determined separately by the Ministry of Health, Labour and Welfare (MHLW).

The indexation of substitution benefits (see section Retirement benefits, Benefit adjustment) is financed by the government.

Methods of financing

All plans: Funded.

Asset management

Employees' pension funds and fund-type defined benefit plans: The asset management is generally contracted to a trust bank, life insurance company or investment advisory firm. In the case of Employees' pension funds (EPFs) the management committee can instruct the appointed asset manager concerning the desired level of investment risk.

Funds may also manage assets in-house provided that a plan for the implementation of an appropriate asset management structure has been submitted to the Ministry of Health, Labour and Welfare (MHLW). This plan must provide for the establishment of an asset management board the members of which must have adequate knowledge and experience. An investment plan that regulates the basic investment principles, method of asset valuation and portfolio composition must also be established.

Assets of EPFs must only be invested in certain legally prescribed investment instruments.

Contract-type defined benefit and tax qualified pension plans: The assets are managed by the trust bank or life insurance company responsible for the management of the contribution and benefit administration.

Corporate-type defined contribution plans: The assets are managed by the pension management organization responsible for the management of the contribution and benefit administration.

Management organizations must offer plan members a choice among at least three investment options of which at least one must guarantee the preservation of the principal. The management organization must provide members with sufficient information to exercise an informed choice. Members are allowed to redirect their investments every 3 months.

Plan assets must be kept by a custodian.

All plans except corporate-type defined contribution plans: No legal requirement for assets to be kept by a custodian.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All plans except employees' pension funds: No legal rules concerning waiting periods but waiting periods are uncommon.

The maximum age for joining a plan is 59.

Employees' pension funds: Waiting periods are prohibited.

The maximum age for joining a plan is 70.

Vesting rules

Employees' pension funds: Employer and employee contributions financing substitution benefits vest immediately.

The rules for additional benefits are the same as for fund-type and contract-type defined benefit and tax qualified pension plans below.

Fund-type and contract-type defined benefit and tax qualified pension plans: The concept of vesting does not exist as benefits upon termination of employment depend on the reason for termination (see section Preservation, portability, transferability). There is no legal right to a specific benefit, however, some benefit must be provided on termination of employment after 3 or more years of plan membership.

Corporate-type defined contribution plans: Employer contributions must vest after 3 years. Employees are not allowed to contribute.

Preservation, portability, transferability

Employees' pension funds: Upon termination of employment, the accrued substitution benefits of members who have participated in the plan for 20 or more years are preserved and transformed into deferred pensions.

In the case of members who have contributed for less than 20 years (i.e. early leavers), a lump sum equivalent to the present value of their accrued substitution benefits must be transferred to the Pension Fund Association (PFA - see section Regulatory and supervisory authorities). The PFA pays benefits at retirement to early leavers and employees who have been members of one or several employees' pension funds (EPFs) for short periods.

The actuarial assumptions applied to the calculation of the lump sum corresponding to the present value of accrued substitution benefits are determined by the PFA.

The rules for additional benefits are the same as for fund-type and contract-type defined benefit and tax qualified pension plans below.

It is possible to transfer pension rights between defined benefit plans and EPFs. If the transfer is difficult, the PFA acts as intermediary, helping plan members to receive the pension benefit.

It is possible for plan members to transfer their asset from defined benefit plans and employee's pension funds to defined contribution plans.

Fund-type and contract-type defined benefit and tax qualified pension plans: Upon termination of employment, plan members must be granted a right to benefit in the form of an immediately payable lump sum if they have at least 3 years of plan membership and in the form of a deferred pension if they have at least 20 years of plan membership. The amount of benefit usually depends, however, on the reason for withdrawal and is lower in the case of voluntary termination of employment. There are no legal rules

concerning minimum benefits to be provided in the case of voluntary termination and there are no legal provisions regulating or limiting the differences between benefits provided upon regular retirement or involuntary termination and those provided upon voluntary termination.

It is possible to transfer pension rights between defined benefit plans and EPFs. If the transfer is difficult, the PFA acts as intermediary, helping plan members to receive the pension benefit.

It is possible for plan members to transfer their asset from defined benefit plans and employee's pension funds to defined contribution plans.

No legal rules for preserved benefits to be indexed.

Corporate-type defined contribution plans: Upon termination of employment, members may transfer their accumulated capital to the defined contribution plan of the new employer. If the new employer does not sponsor a defined contribution plan, the capital may be left with the plan of the former employer or transferred to the personal defined contribution plan administered by the National Pension Fund Association (see section Types of plans).

Retirement benefits

Benefit qualifying conditions

Employees' pension funds Retirement age depends on plan rules but must be between age 60 and age 65.

Deferred retirement is permitted.

Fund-type and contract-type defined benefit plans: Retirement age depends on plan rules but must be between age 60 and age 65.

Plan rules may provide for retirement between age 50 and age 60 in case insured persons end their employment contracts.

Deferred retirement is permitted.

Tax qualified pension plans: No legal rules.

The benefit eligibility age depends on plan rules.

Corporate-type defined contribution plans: Benefits may start being paid between age 60 and age 65 depending on the length of membership in the plan. Members are eligible for benefits at age 60 after 10 years of membership, at age 61, 62, 63, 64 after 8, 6, 4, 2 years of membership respectively and at age 65 after 1 month of membership.

Benefit structure / formula

Employees' pension funds: Defined benefit.

The substitution benefits must be calculated according to the same formula as benefits under the employees' pension insurance (i.e. 0.7125% of indexed monthly salary over the full career times the number of months of coverage) and must generally be paid as pensions for life. Plan rules may, however, provide for one-half of the pension to be paid for a fixed period.

Additional benefits of at least 50% of the substitution benefits must be provided. For these additional benefits, see fund-type and contract-type defined benefit and tax qualified pension plans below.

Fund-type and contract-type defined benefit and tax qualified pension plans: Defined benefit.

Benefits must generally be paid as a lump sum for retirees who have been plan members for between 3 and 20 years. If a retiree has been a member for at least 20 years, a choice between a pension benefit payable for a minimum period of 5 years and a lump-sum benefit must generally be provided. Plan rules may, however, provide for:

- Certain conditions to be met by retirees (i.e. dependent children, illness or the building of a house) to be eligible for a lump sum after membership of at least 20 years (such conditions must not be applied in the case of tax qualified pension plans);
- The right to pension benefits after less than 20 years of membership;
- Pensions to be paid for more than the legal minimum of 5 years (a payment period of 10 years is most common).

Benefits are usually based on final salary with accrual rates and pensionable service defined in the plan rules.

Corporate-type defined contribution plans: Defined contribution.

The accumulated capital can be withdrawn at retirement as a lump sum, but pension management organizations may also provide fixed-term or life annuities.

Members can make withdrawals of up to JPY 15,000 before retirement age.

Benefit adjustment

Employees' pension funds: Substitution benefits must be indexed according to changes in prices.

Fund-type and contract-type defined benefit and tax qualified pension plans: No legal rules.

Adjustments depend on plan rules and are not common.

Corporate-type defined contribution plan: No legal rules.

Adjustments depend on the type of annuity, if any.

Survivors

All plans except corporate-type defined contribution plans: No legal rules except that in the case of employees' pension funds (EPFs), eligible survivors must be the same as under the employees' pension insurance (EPI).

The provision of survivor benefits is voluntary and subject to plan rules.

Corporate-type defined contribution plans: No legal rules.

Eligible survivors receive the deceased member's accumulated capital as a lump sum.

The provision of survivor benefits is voluntary and subject to plan rules.

Disability

All plans: No legal rules.

The provision of disability benefits is voluntary and subject to plan rules.

Protection of Rights

Protection of Assets

Employees' pension funds and fund-type defined benefit plans: All pension funds are independent legal entities that must hold plan assets completely separate from the sponsoring employer(s).

Contract-type defined benefit and tax qualified pension plans: Trust banks and life insurance companies must hold plan assets completely separate from the sponsoring employer(s).

Corporate-type defined contributions plans: Pension management organizations must hold plan assets completely separate from the sponsoring employer.

Plan assets must be kept by a custodian.

All plans except corporate-type defined contribution plans: No legal requirement for assets to be kept by a custodian.

Financial and Technical Requirements / Reporting

Employees' pension funds: Pension actuaries must be appointed at least every 5 years to:

- Carry out an actuarial valuation;
- Prepare an actuarial report that must be submitted to the Ministry of Health, Labour and Welfare (MHLW);
- Establish a funding plan for the following five years.

Employees' pension funds (EPFs) must submit yearly financial reports and quarterly operating reports to the MHLW. Financial reports must:

- Outline whether the funding plan is being correctly implemented;
- Reveal whether assets are sufficient to cover liabilities if the EPF were to be wound up at the time of the preparation of the report;
- Be certified by a pension actuary.

If the funding level falls below 90%, sponsoring employer(s) must restore a fully funded position

within 7 years. Employers may do so, subject to certain conditions, by contributing their own stock or other securities to the fund instead of contributing cash.

Actuarial surpluses must not be returned to the sponsoring employer(s).

Fund-type and contract-type defined benefit and tax qualified pension plans: Pension actuaries must be appointed at least every 5 years to:

- Carry out an actuarial valuation;
- Establish a funding plan for the following five years.

Actuarial surpluses must not be returned to the sponsoring employer.

Tax qualified pension plans must submit certain information regularly to the National Tax Administration (NTA).

Fund-type and contract-type defined benefit plans: The trust bank or insurance company or the fund management committee must annually examine whether the funding plan is being correctly implemented and whether assets are sufficient to cover liabilities if the plan were to be wound up at the time of the examination.

If the funding level falls below the required level, employers must restore a fully funded position within a certain period. From a certain level of overfunding, employer contributions can be reduced or ceased for an appropriate period.

Sponsoring employer(s) must submit yearly reports containing information on contributions made, asset allocation and financing to the MHLW.

Corporate-type defined contributions plans: Sponsoring employers must regularly inform the MHLW of:

- Contributions made;
- Asset allocation and investment returns.

Whistleblowing

All plans: No legal rules.

Standards for service providers

Contract-type defined benefit plans and tax qualified pension plans: Trust banks must be banks licensed by the Financial Services Agency (FSA) that have obtained approval from the FSA to carry out trust operations. Insurance companies must be licensed by the FSA. No specific additional license or authorization is required for these institutions if they operate in the area of occupational pension plans.

Corporate-type defined contribution plans: Custodians must be trust banks or insurance companies.

No specific additional license or authorization is required for these institutions to provide custodial services in the area of occupational pension plans.

All plans except corporate-type defined contribution plans: Pension actuaries must be certified by the Ministry of Health, Labour and Welfare (MHLW).

Fees

All plans: No legal rules.

Winding up / Merger and acquisition

Employees' pension funds and fund-type and contract-type defined benefit plans: A plan (and the related pension fund if applicable) is wound up if the sponsoring employer(s) is insolvent or if, in the case of fund-type and contract-type defined benefit plans, the Ministry of Health, Labour and Welfare (MHLW) withdraws the approval of the contract based on agreement between employees and employer or of the establishment of the pension fund.

Voluntary winding-up is subject to the authorization of the MHLW and the consent of a majority of plan members.

Tax qualified pension plans: A plan is wound up if the sponsoring employer is insolvent or the National Tax Administration (NTA) withdraws the approval of the plan.

Corporate-type defined contribution plans: A

plan is wound up if the sponsoring employer is insolvent or the MHLW withdraws the approval of the contract based on agreement between employees and employer.

Bankruptcy: Insolvency Insurance / Compensation Fund

Employees' pension funds: The Pension Fund Association (PFA - see section Regulatory and supervisory authorities) administers a compulsory insolvency insurance scheme. All employees' pension funds (EPFs) must make contributions to this insurance scheme the amount of which vary according to the statistical likelihood of insolvency and the unfunded liability if the plan were to be wound up.

The PFA takes over the remaining assets and all liabilities with respect to the substitution benefits from the EPF that is wound up and pays benefits to members as and when they are due.

All other plans: There are no legal requirements to insure against losses and no compensation fund exists.

Disclosure of information / Individual action

Employees' pension funds and tax qualified pension plans: No legal requirements for information to be disclosed to plan members.

Fund-type and contract-type defined benefit plans: The sponsoring employer(s) must submit yearly reports to plan members containing information on contributions made, asset allocation, financing and the plan rules.

Corporate-type defined contributions plans: The sponsoring employer must regularly inform the plan members of:

- Contributions paid;
- Asset allocation and investment returns.

All plans: There are no legal rules concerning provisions for resolving complaints or disputes between plan members or beneficiaries and institutions involved in the administration of their plan.

Other measures

All plans: None.

Tax Treatment

Taxation of employee contributions

Employees' pension funds: Tax-deductible.

Fund-type and contract-type defined benefit and tax qualified pension plans: Tax-deductible for life insurance premium up to a limit of JPY 50,000 a year.

Corporate-type defined contribution plans: Employee contributions are prohibited.

Taxation of employer contributions

Employees' pension funds: Tax-deductible.

Fund-type and contract-type defined benefit and tax qualified pension plans: Tax-deductible.

Corporate-type defined contribution plans: If the employer sponsors only one occupational plan, the maximum tax-deductible yearly contribution is JPY 552,000 for each employee. If the employer also sponsors a defined benefit plan, the maximum tax-deductible yearly contribution to the defined contribution plan is JPY 276,000 for each employee.

All plans: Contributions are not considered to be taxable fringe benefits for members.

Taxation of investment income

All plans: Assets are taxed at a rate of 1.173% (1% national and 0.173% local tax) a year.

Employees' pension fund assets are taxed at the above rate only if they exceed the amount necessary to cover liabilities of 3.23 times the accrued substitution benefits.

Taxation of benefits

All plans: A part of pension benefits is taxed as income at a rate of between 10% and 37%. The tax-exempt amount depends on the total pension income from different sources (e.g. employees' pension

insurance, occupational plans etc.) and the number of dependents.

Only a part of lump-sum benefits is taxed as income at a rate of between 10% and 37%. The tax-exempt amount depends on a so-called retirement income deduction that is deducted from the lump sum. The lump sum minus the deduction and divided by two is taxed at the applicable income tax rate. The retirement income deduction varies with the length of plan membership. If the membership has lasted for up to 20 years, the deduction is JPY 400,000 times the years of membership. If the membership has lasted for more than 20 years, the deduction is JPY 8 million plus JPY 700,000 times the years of membership exceeding 20.

Regulatory and Supervisory Authorities

Ministry of Health, Labour and Welfare: Supervises employees' pension funds (EPFs), defined benefit and defined contribution plans, except tax qualified pension plans.

Kosei-Rodosho
1-2-2 Kasumigaseki
Chiyoda-ku
Tokyo 100-8916
Japan
Internet: www.mhlw.go.jp

Pension Fund Association: Is an association of all employees' pension funds established by law.

The main functions of the Pension Fund Association (PFA) with regard to EPFs are to:

- Offer administrative services;
- Provide pensions to early leavers and members of funds that have been wound up;
- Administer the compulsory insolvency insurance scheme;
- Provide counselling services.

Kigyo Nenkin Rengokai
10th. Fl.
Shuwa Shiba Park Building B, 4-1
Shibakoen 2-chome
Minato-ku
Tokyo 105-0011
Japan
Internet: www.pfa.or.jp

National Tax Administration: Supervises tax qualified pension plans and examines whether plans comply with legal requirements. As no new tax qualified pension plans are approved and as all existing plans must be wound up by 31 March 2012, the role of the National Tax Administration (NTA) in the area of occupational pensions will decrease. The Administration is under the supervision of the Ministry of Finance.

National Tax Administration
3-1-1 Kasumigaseki
Chiyoda-ku
Tokyo 100-8978
Japan
Internet: www.nta.go.jp

Financial Services Agency: Supervises trust banks, insurance companies and investment advisory firms.

Financial Services Agency
3-1-1 Kasumigaseki
Chiyoda-ku
Tokyo 100-8967
Japan
Internet: www.fsa.go.jp

Malaysia

Exchange rate: USD 1.00
equals 3.62 ringgits (MYR)

Regulatory Framework

1991: Employees Provident Fund Act; allows pension plans/provident funds established prior to this Act to have approved fund status if they provide benefits at least as good as those of the mandatory Employees Provident Fund (EPF) and to be exempt from paying contributions to the EPF.

1967: Income Tax Act; defines legal requirements for the establishment of complementary occupational pension plans/provident funds that apply for tax exemption on contributions, investment income and benefit payments.

Plan Profile

Plan sponsors

Employers may, on a voluntary basis, establish complementary occupational pension plans/provident funds to provide employee benefits to supplement those provided by the Employees Provident Fund (EPF), the mandatory retirement scheme for private-sector employees.

A subsidiary company may, by submitting a Deed of Adherence to the Inland Revenue Board of Malaysia (IRB), participate in the pension plan/provident fund of its holding company that has been granted approval under the Income Tax Act. However, associated or related companies are not allowed to participate in the holding companies' pension plan/provident fund.

Pension plans/provident funds are normally established by single employers such as listed companies or multinational corporations. They may also be established based on a collective agreement, provided that the provision for retirement benefits is part of the employees' benefits in the collective agreement. All parties are involved in the bargaining process for the establishment of occupational pension plans/provident funds under a collective agreement.

Types of plans

IRB registered employer-sponsored plans: Employers may apply to the Inland Revenue Board of Malaysia (IRB) for approval of a pension plan/provident fund under the provisions of the Income Tax Act in order to receive tax exemption on contributions, investment income, and benefits paid to members. To be IRB registered, pension plans/provident funds must be established through a Trust Deed and Rules of the Fund and may be either defined benefit or defined contribution.

Complementary occupational pension plans/provident funds that pre-existed the establishment of the mandatory Employees Provident Fund (EPF) in 1991 could apply to the EPF for approved fund status. Such status was granted if the benefits provided under the pension plan/provident fund were at least as good as those provided by the EPF.

Employers that sponsor approved funds and participating employees are exempt from contributing to the EPF and must instead continue to contribute to the approved fund. The EPF maintains oversight of approved funds as they must comply with the same regulations as the EPF. Approved funds must be IRB registered pension plans/provident funds.

Participation is voluntary for the employees.

Other employer-sponsored plans: Complementary occupational pension plans/provident funds may be established as insured plans or as book reserves and may be either defined benefit or defined contribution.

Participation is voluntary for the employees.

Institutional Framework

IRB registered employer-sponsored plans: Complementary occupational pension plans/provident funds that wish to receive tax advantages must apply to the Inland Revenue Board of Malaysia (IRB)

for approval. To receive approval, pension plans/provident funds are required to have a Trust Deed and the assets must be held in trust by the Board of Trustees, which is the legal owner. Any variations to the Trust Deed or the plan rules must be made through a Deed of Variation and must be submitted to and approved by the IRB. In addition to the Trust Deed, the following documents must accompany the application:

- Draft Rules of the Fund of the pension plan/provident fund;
- Board of Director's resolution approving the establishment of the pension plan/provident fund;
- Form 49 of the Companies Act;
- Profile of the sponsoring employer, including the details of the directors, chief executive officer, company secretary, auditor and major shareholders.

Pension plans/provident funds must obtain prior approval from the IRB for all members of the Board of Trustees by submitting a Deed of Appointment. Trustees may be members of the plan, corporate trustees (i.e. individual employees of the company establishing the pension plan/provident fund) or persons from independent companies. The Board of Trustees must comprise an odd number and at least half of Board members must not be members of the Board of Directors of the sponsoring employer. The conduct and responsibilities of the Board of Trustees are stipulated under the Trustees Act.

The Board of Trustees may either manage the contribution and benefit administration or appoint an individual or corporate trustee to manage these.

Other employer-sponsored plans: No legal rules.

Complementary occupational pension plans/provident funds that are not registered with the IRB, are governed by their respective Trust Deed, if any, and plan rules. The sponsoring employer usually manages the contribution and benefit administration of the pension plan or provident fund.

Coverage

All employer-sponsored plans: Private-sector employees and nonpensionable public-sector employees.

There are no minimum or maximum age conditions for participating in a complementary occupational pension plan/provident fund.

There are no legal rules regarding discriminatory practices in coverage. Some pension plans/provident funds may include eligibility conditions such as length of service or level of rank in the plan rules.

Financing / Investment

Sources of funds

Employee contributions

All employer-sponsored plans: In the case of approved pension plans/provident funds which substitute for the Employees Provident Fund (EPF) (see section Type of Plans) employees contribute 11% of monthly earnings according to wage classes. Otherwise, contributions depend on plan rules but in most cases employees do not contribute.

There are neither legal minimum or maximum rates of contributions nor earnings limits considered for contributions other than for taxation purposes (see section Taxation of employee contributions).

Employer contributions

IRB registered employer-sponsored plans: In the case of approved pension plans/provident funds which substitute for the Employees Provident Fund (EPF) (see section Type of Plans) employers must contribute 12% of the employees' earnings according to wage classes. Otherwise, contributions depend on plan rules and range from 1% to 7% of employee's total salary.

There are neither legal minimum or maximum rates of contributions nor earnings limits considered for contributions other than for taxation purposes (see section Taxation of employer contributions).

Other employer-sponsored plans: No legal rules.

Other sources of funds

All employer-sponsored plans: None.

Methods of financing

IRB registered employer-sponsored plans: Funded.

Other employer-sponsored plans: Funded through insurance contracts or book reserves of the sponsoring employer.

Asset management

All employer-sponsored plans: The pension plan/provident fund assets may be managed in-house by the sponsoring employer (i.e. self-administered trust fund) or by insurance companies, banks or investment fund managers approved by the Inland Revenue Board of Malaysia (IRB).

In cases where the management of plan assets is outsourced to fund managers or are invested in unit trusts, these fund managers and unit trust management companies must be approved and regulated by the Securities Commission.

IRB registered employer-sponsored plans: If members of the pension plan/provident fund are domiciled in Malaysia and the pension plan/provident fund is managed in-house by the sponsoring employer, the following asset allocation limits apply:

- 20% of the total fund is not subject to any restrictions;
- 20% of the total fund must be invested in Malaysian Government Securities or other short, medium or long term securities guaranteed by the Malaysian Government, such as Malaysian Treasury Bills, Government Investment Issues, Bank Negara Malaysia Bills, Cagamas Instruments, Danaharta and other similar instruments;
- 60% of the total fund must be invested in Malaysia and in the form of the following assets:

— Debentures or loans issued by corporations established under any written Malaysian law;
— Stocks, debentures or other securities issued by a corporation established in Malaysia and listed in any approved stock exchange or registered under the Co-operative Societies Act;
— Real estate or interests in properties in Malaysia and loans secured by the estate or properties, subject to the value of the security;
— Fixed deposits placed with financial institutions licensed under the Banking and Financial Institutions Act or the Islamic Banking Act;
— Units in unit trusts approved by the Securities Commission;
— Bond or mortgage papers, commercial notes, banker's acceptances, money market papers, certificates of deposits, private debt securities, promissory notes, bills of exchange in the context of Bills of Exchange Act and other tradable instruments.

The same investment limits apply if the asset management is delegated to banks and investment fund managers.

If the asset management is delegated to insurance companies, the investment requirements specified under the Insurance Act apply.

If all members of the pension plan/provident fund are not domiciled in Malaysia and the pension plan/provident fund manages its own investments, there are no investments restrictions.

Management institutions charge fees for the asset management of pension plans/provident funds assets. Fees charged by fund managers usually depend on the pension plan/provident fund size while insurance companies charges fees via commissions and management expenditures, which are included in the premium rates. There are no legal requirements concerning fees.

Other employer-sponsored plans: There are no restrictions on asset allocation.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

All employer-sponsored plans: No legal rules regarding minimum or maximum waiting periods.

The average minimum age for joining a pension plan/provident fund varies between 18 and 20, and

required service between 6 and 12 months, depending on the plan rules.

Vesting rules

All employer-sponsored plans: No legal rules regarding minimum or maximum vesting periods.

Vesting periods generally ranges from 3 to 25 years, depending on the plan rules.

Preservation, portability, transferability

IRB registered employer-sponsored plans: Employees are not able to remain a member of the same pension plan/provident fund when moving from one employer to another.

If a member ceases to be employed by the employer who sponsors the scheme or if the scheme is dissolved, the Board of Trustees of the pension plan/provident fund must:

- Withhold the accumulated capital of the member until the retirement age of 55 years, retirement due to ill health, death or permanent emigration from Malaysia; or
- Transfer the accumulated capital of the member to the Employees Provident Fund (EPF) or to another approved pension plan/provident fund; or
- Pay the total amount of money due to the member in the form of a nonassignable and noncommutable life pension; or
- Convert the accumulated capital of the member into a life insurance policy that matures upon death or upon attaining the normal retirement age. The policy must be assigned to the Board of Trustees.

Other employer-sponsored plans: No legal rules.

Retirement benefits

Benefit qualifying conditions

IRB registered employer-sponsored plans: Retirement age is 55 for both men and women. Benefits may be paid before the retirement age in case of permanent emigration from Malaysia.

Early retirement benefits are provided by a few pension plans/provident funds. When they are provided, the minimum early retirement age is 50.

Other employer-sponsored plans: No legal requirements. Retirement benefits depend on plan rules.

Benefit structure / formula

All employer-sponsored plans: Defined benefit or defined contribution.

In defined contribution plans, the lump-sum benefit is determined by accumulated contributions plus interest.

In defined benefit plans, the benefit depends on plan rules with a typical accrual rate between 0.5% and 1.0% of the last drawn monthly salary per year of service. The benefit may be paid as a lump sum or an annuity. Most employer-sponsored pension plans provide lump-sum benefits.

The early retirement benefit is determined by accumulated contributions plus interest.

Benefit adjustment

All employer-sponsored plans: There are no legal requirements for indexation of retirement benefits.

Benefit adjustment of each pension plan differs according to plan rules. In most cases, pension increases are decided by the employer or the Board of Trustees of the plan.

Survivors

All employer-sponsored plans: There are no legal requirements for the provision of survivor benefits. Survivor benefits, if provided, differ according to plan rules.

Employers usually purchase group life insurance and benefits are paid to members' widow(er) or children.

Disability

All employer-sponsored plans: There are no legal requirements for the provision of disability benefits. Disability benefits, if provided, differ according to plan rules.

Protection of Rights

Protection of Assets

IRB registered employer-sponsored plans: Pension plan/provident fund assets must be held in trust separate from those of the sponsoring employer and asset manager, if any. The legal owner of the money held in trust is the Board of Trustees.

Other employer-sponsored plans: No legal rules.

Financial and Technical Requirements / Reporting

IRB registered employer-sponsored plans: Plans must submit annually audited accounts and information on investment to the Inland Revenue Board of Malaysia (IRB).

Approved funds (see section Types of plans) must submit audited accounts as required by the Employees Provident Fund Board.

Other employer-sponsored plans: No legal rules.

Whistleblowing

All employer-sponsored plans: No legal rules.

Standards for service providers

IRB registered employer-sponsored plans: Corporate trustees (see section Institutional framework) must be licensed by the Companies Commission of Malaysia.

Other employer-sponsored plans: No legal rules.

Fees

All employer-sponsored plans: No legal rules.

Management institutions charge fees for managing pension plan/provident fund assets. Fees charged by fund managers usually depend on the pension plan/provident fund size. Insurance companies charges fees via commissions and management expenditures, which are included in the premium rates.

Winding up / Merger and acquisition

IRB registered employer-sponsored plans: Prior approval must be obtained from the Inland Revenue Board of Malaysia (IRB) through a Deed of Dissolution to wind up a plan. The following supporting documents must also be submitted to the IRB:

- Sponsoring employer's Board of Directors' resolution approving the dissolution of the pension plan/provident fund;
- Realization Account of the pension plan/provident fund at the date of dissolution;
- Evidence indicating that payment has been made to the appropriate authorities with regard to the options shown below.

If a pension plan/provident fund other than approved funds (see section Type of plans) has to be wound up, the following options are available:

- Withhold the accumulated capital of the member until the member retires at age 55 or due to ill health, dies or permanently emigrates from Malaysia; or
- Transfer the accumulated capital of the member to the Employees Provident Fund (EPF) or to another approved pension plan/provident fund; or
- Pay the accumulated capital of the member in the form of a nonassignable and noncommutable life pension; or
- Convert the accumulated capital of the member into a life insurance policy that matures upon death or attaining normal retirement age. The policy must be assigned to the Board of Trustees.

If the EPF Board is not satisfied with the management of an approved fund, it may revoke its approved fund status and the same options will apply as if the fund is wound up.

If an approved fund has to be wound up, the accumulated capital of the member must be transferred to the Employees Provident Fund (EPF). An amount, as determined by the EPF Board, will then be credited to each member. The EPF Board may, in the interests of members, accept in their entirety the assets and liabilities of the approved fund. In case assets of such approved fund are not sufficient to meet

the liabilities, the amount to be credited to members must be reduced in the proportion as determined by the Board. If the amount standing to the credit of any member consists in whole or in part of a life Insurance policy, the policy is not transferred to the EPF, but is dealt with in accordance with rules applying to life insurance policies.

Other employer-sponsored plans: No legal rules.

Bankruptcy: Insolvency Insurance / Compensation Fund

All employer-sponsored plans: There are no legal requirements for insolvency insurance. There is no state guarantee fund.

Disclosure of information / Individual action

All employer-sponsored plans: There are no legal provisions for resolving complaints or disputes between pension plan/provident fund members or beneficiaries and the management.

Other measures

All employer-sponsored plans: No legal rules.

Tax Treatment

Taxation of employee contributions

All employer-sponsored plans: Pension plan/provident fund members have a total personal limit of MYR 6,000 per year tax relief on contributions to the Employees Provident Fund (EPF), to IRB registered employer-sponsored plans as well as to insurance related products (see section Types of plans).

Taxation of employer contributions

IRB registered employer-sponsored plans: Tax-deductible up to 7% of employee's total salary (in addition to the compulsory 12% Employees Provident Fund (EPF) employer contribution).

Other employer-sponsored plans: Taxed.

Taxation of investment income

IRB registered employer-sponsored plans: Tax-exempt.

Other employer-sponsored plans: Taxed.

Taxation of benefits

IRB registered employer-sponsored plans: Tax-exempt.

Other employer-sponsored plans: Taxed.

Regulatory and Supervisory Authorities

Inland Revenue Board of Malaysia (IRB): Regulates the establishment of pension plans/provident funds that intend to obtain tax exemption on contributions, investment income and benefits paid to members.

Inland Revenue Board of Malaysia
Lembaga Hasil Dalam Negeri Malaysia,
Tingkat 15, Blok 9,
Kompleks Bangunan Kerajaan,
Jalan Duta, Peti Surat 11833,
50758 Kuala Lumpur
Malaysia
Tel.: (+603) 6209 1000
Fax: (+603) 6201 3798
Internet: www.hasilnet.org.my

Employees Provident Fund (EPF): Manages the mandatory retirement scheme for private-sector employees (EPF) and oversights approved funds (see section Types of plans).

Employees Provident Fund
25th Floor, EPF Building
Jalan Raja Laut
MY-50350 Kuala Lumpur
Malaysia
Tel.:+(60-3) 2694 6566
Fax:+(60-3) 2694 8433
Internet: www.kwsp.gov.my

Securities Commission: Regulates and approves fund managers and unit trust management companies that manage pension plans/provident funds or receive

investments from them.

Securities Commission
3 Persiaran Bukit Kiara
Bukit Kiara
50490 Kuala Lumpur
Malaysia
Tel.: (+603) 6204 8000
Fax: (+603) 6201 5078
Internet: www.sc.com.my

Bank Negara Malaysia: Regulates insurance companies.

Bank Negara Malaysia
Jalan Dato' Onn,
P.O. Box 10922,
50929 Kuala Lumpur
Malaysia
Tel.: (+603) 2698 8044
Fax: (+603) 2691 2990
Internet: www.bnm.gov.my

New Zealand

Exchange rate: USD 1.00 equals
1.57 New Zealand dollars (NZD)

Regulatory Framework

1997: Securities Amendment Regulations; amend Securities Regulations 1983 (established under Securities Act 1978) to require prospectus and investment statements for certain occupational and public (i.e. available to the whole population) superannuation schemes.

1994: Income Tax Act; regulates the tax treatment of contributions, investment income and benefits.

1993: Financial Reporting Act; provides a framework for mandatory accounting standards (standard for superannuation schemes is FRS-32 and was issued in 1994 by the Institute of Chartered Accountants of New Zealand).

1993: Human Rights Act; prohibits discrimination on grounds of age, gender, disability, ethnicity, marital status, but defines some exemptions for superannuation schemes in respect of age and gender if actuarially justified.

1989: Superannuation Schemes Act; provides for the registration of both occupational and public superannuation schemes, requires a registered scheme to be implemented as a trust and contains rules aimed at protecting the rights of scheme members, requires actuarial examinations for defined benefit schemes by fellows of the New Zealand Society of Actuaries.

1956: Trustee Act; defines general fiduciary requirements for trustees.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish a complementary occupational pension plan for their employees.

Terms, including employer contribution levels, are almost invariably determined by the employer.

Insurance companies and other providers of financial services may promote master trust schemes and seek employer clients for such trusts.

Provision of superannuation through collective bargaining is very rare.

Types of plans

In New Zealand pension plans are referred to as "superannuation schemes" which signals that most schemes provide lump sums on retirement, with only a small minority providing pensions. This profile for New Zealand adopts this terminology and uses "scheme" where "plan" is used in other country profiles.

Registered superannuation schemes: Occupational schemes may be single employer, on a standalone basis, or may be part of a master trust arrangement catering for many employer sub-schemes. Insurance companies and other providers of financial services may establish master trust schemes and seek employer clients for such trusts, and also offer to help establish standalone schemes. Some industry-wide or union-based schemes also exist but date back prior to 1990 and are rare.

Most schemes are defined contribution and provide a lump sum at retirement, although some defined benefit pension schemes exist. New schemes are almost invariably of the defined contribution lump-sum type.

In order to receive favourable tax treatment, superannuation schemes must comply with the Superannuation Schemes Act and be registered with the Government Actuary. Application for registration of an occupational superannuation scheme under the Superannuation Schemes Act 1989 requires that:

- It is governed by a trust deed subject to New Zealand law;
- At least one trustee is a New Zealand resident.

The trustees of the scheme must attach the following documents to the application for registration:

- A copy of the trust deed;
- The names of the trustees or, where a trustee is a company, of the directors of that company;
- The names (if applicable) of the administration manager, asset manager, and insurer of the scheme;
- The name and address of any trustee who is a New Zealand resident;
- A certificate by the trustees, the administration manager or a solicitor stating that the trust deed complies with the requirements laid down in the Superannuation Schemes Act;
- A copy of the explanatory material that has been, or is intended to be, issued to members or potential members.

For registration, provisions of the trust deed must comply with the Superannuation Schemes Act. On registration, certain provisions are implied into the trust deed, if not already included.

Membership is usually voluntary for covered employees. A small minority of employers makes membership a condition of employment.

Additional voluntary contributions are permitted in many schemes, but are subject to the trustees' consent.

Unregistered superannuation schemes: Employers may establish an unregistered complementary occupational pension scheme that does not provide members with the protections available under the Superannuation Schemes Act 1989. Beneficiaries under such schemes may incur tax on part of any benefits that would not be payable were the scheme registered.

Unregistered schemes are not regulated and are usually only established to provide special benefits for specific categories of employees such as the senior management. The vast majority of superannuation schemes are registered. Information on unregistered schemes is not available.

Institutional Framework

Registered superannuation schemes: Schemes are implemented through a trust deed. Trustees are legally responsible for the scheme even where certain powers are delegated. The trust deed sets out the number of trustees and provision for their appointment and retirement. The trustees administer the scheme completely separately from the sponsoring employer.

There are no legal rules as to how trustees are constituted. Trustees may be individuals or a body corporate and in the latter case, the directors are effectively the trustees. The employer (or a subsidiary) is not prohibited from being a corporate trustee, and this does occur. There is no legislative requirement for appointment or election of member or employee trustees, although there are some instances of this happening. The general rule for single-employer schemes (known as standalone schemes) is that the employer will appoint trustees, commonly senior executives of the employer. For master trusts, a corporate trustee will usually be appointed.

The trust deed shall specify the following matters:

- Conditions of membership;
- Conditions as to termination of membership;
- Employee and employer contributions to the scheme;
- Benefit qualifying conditions and benefit formula;
- The circumstances under which the scheme may be wound up, and the asset distribution in the event of winding up.

Trustees may, and often do, appoint an administration manager and one or more asset managers. There are no licensing requirements in either case. Appointed managers are normally paid, and such services may be provided by insurance companies, other financial institutions, or specialist entities.

Trustees may insure ancillary services provided by the scheme with an insurance company.

Coverage

Registered superannuation schemes: Private- and public-sector employees.

The sponsoring employer is free to decide who is to be covered by an occupational pension scheme, and practice varies. Often only full-time employees are eligible, thus discriminating between full-time

and part-time employees. Waiting periods may be applied.

Discrimination on grounds of age, gender, disability, marital status and ethnicity is prohibited, except (in the case of the first three categories) where permitted by the Human Rights Act 1993 on actuarial grounds. That Act did not have fully retrospective effect in some respects, and hence some discriminatory features may remain for those who became members prior to 1 January 1996, or 1 February 1999. Different benefit formulas apply to different occupational categories of employees.

Public-sector employees were able to join the Government Superannuation Fund, a partially funded defined benefit arrangement, up until 1992 when it was closed to new entrants. New employees from 1 July 2004 can choose to join one of three defined contribution Master Trust Superannuation Schemes registered under the Superannuation Schemes Act 1989. There is an employer dollar for dollar subsidy, up to a maximum of 3% of the member's base salary. Information on the Scheme is available at http://www.superscheme.govt.nz. There are compulsory schemes for Police and Armed Forces personnel.

The self-employed may become members of public (i.e. available to the whole population) defined contribution superannuation schemes offered by insurance companies, banks, and other financial institutions. Individual employees may arrange payroll deductions to such schemes with the consent of their employer.

Financing / Investment

Sources of funds

Employee contributions

Registered superannuation schemes: No legal rules.

Most schemes are contributory and the employee contribution rate is usually 5% of salary.

Employer contributions

Registered superannuation schemes: No legal rules.

For defined contribution schemes, employers often contribute around 5% of salary. Some schemes have higher employer contribution levels, but a very few schemes require the employer to only meet the scheme administration costs.

For defined benefit schemes, effective employer contribution rates are generally higher and amount to 10% of salary or more. Employers are able to take a contribution holiday.

Other sources of funds

Registered superannuation schemes: None.

Methods of financing

Registered superannuation schemes: Funded.

Asset management

Registered superannuation schemes: The trustees may manage the investment of scheme assets themselves or contract the asset management to an asset manager.

Trustees are required to exercise their powers with the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others (prudent person rule).

There is no licensing of asset managers and the trustees have to take responsibility for their selection. Any appointed asset managers are also required to observe the prudent person rule.

No quantitative investment restrictions on the investment of scheme assets exist, but trustees are required to advise members in the annual report if more than 10% of the scheme assets by market value are invested in any sponsoring employer or any company or entity associated with a sponsoring employer.

There are no constraints on foreign investment.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Registered superannuation schemes: No legal rules.

Employers define eligibility criteria for joining a scheme in the trust deed and these differ widely in practice. A waiting period of up to 1 year is not uncommon.

Vesting rules

Registered superannuation schemes: No legal rules.

Employee contributions usually vest immediately.

Past practice has tended to be for employer contributions in defined contribution schemes to vest gradually, with partial vesting starting in the first years of membership and full vesting after 10 to 20 years. However, in line with a trend for employees to have total remuneration contracts, full immediate vesting of employer contributions is becoming more prevalent.

Defined benefit schemes tend to have similar vesting provisions.

Preservation, portability, transferability

Registered superannuation schemes: No legal rules.

Trust deed provisions often (but not always) allow for payment and receipt of lump-sum transfer values at the discretion of the trustees. The basis of calculation of a transfer value, and the treatment of that transfer value in the recipient scheme, will be in accordance with the relevant trust deed provisions, which may include trustee discretions.

Preservation requirements are almost nonexistent, with employees leaving employment before retirement usually receiving a refund of their own contributions and the vested employer contributions with interest. Some defined benefit schemes however offer a deferred pension option. Indexing of deferred pensions may occur in part or in whole, depending on trust deed provisions, and generally subject to trustee discretion and possibly employer consent.

Some defined contribution schemes allow members to withdraw a part of their contributions on demand, at the discretion of the trustees or as of right. This is allowed provided the trustees can still demonstrate that the scheme is being operated principally for the purpose of providing benefits at retirement.

Retirement benefits

Benefit qualifying conditions

Registered superannuation schemes: Few legal rules exist, apart from the anti-discrimination provisions of the Human Rights Act 1993.

Specification of a mandatory retirement age earlier than age 65, the age at which entitlement to social security benefits commences, is not permitted for members joining a scheme after 1 February 1999. Past practice was usually for retirement between ages 60 and 65 (depending on scheme rules), with earlier retirement subject to employer consent.

An employee required by scheme provisions to cease membership on attainment of a certain age has the statutory right to leave benefits in the scheme until ceasing employment.

It is common to provide for actuarial reductions to pensions in the case of early retirement in defined benefit schemes.

Benefit structure / formula

Registered superannuation schemes: No legal rules.

The benefit structures/formulas of schemes vary widely in practice. Defined contribution lump-sum schemes are the most common, but defined benefit pension and lump-sum schemes exist and hold substantial assets.

In the past, smaller employers tended to provide defined contribution lump-sum schemes while larger employers often provided defined benefit schemes with pension benefits. However many defined benefit

pension schemes have now been converted to defined contribution lump-sum schemes, and no new defined benefit schemes have been registered.

For those defined benefit schemes that do continue to exist, pension accrual tends to be of the order of 1% to 1.5% of average final salary for each year of service. Average final salary can be calculated over 5 years but 3 years or even 1 year is more common. Career average schemes are rare.

A number of defined benefit schemes provide lump sums. All defined benefit pension schemes permit at least 25% commutation (i.e. receive a lump sum in place of pension) and an increasing number permit 50% or even 100% commutation, either at a fixed rate or determined actuarially.

Some defined benefit schemes used to be integrated with social security, generally by pensionable salary being expressed as gross salary less an offset dependent on social security benefits. In recent years, however, some of these schemes have either converted to defined contribution lump sum, or integration has been removed.

There is no requirement to purchase an annuity. Some defined contribution lump-sum schemes may offer the member that option, but the trustees are likely to buy it from a life insurance office. It is permissible to offer annuities priced on gender, provided it can be actuarially justified.

Benefit adjustment

Registered superannuation schemes: No legal rules.

Many defined benefit schemes' trust deeds have provision for pension increases, but these are normally subject to trustee discretion and sometimes to employer consent. A limit may be expressed, usually as a percentage of observed inflation as measured by the consumer price index, but may also incorporate a fixed maximum percentage. Some schemes are funded for planned pension increases; for others, increases depend on favourable scheme experience.

Survivors

Registered superannuation schemes: No legal rules.

Survivor benefits are sometimes covered by a separate scheme and are usually provided to the spouse. However, the practice varies widely.

Defined contribution schemes usually provide a lump sum of either a multiple of salary or the accrued benefit plus a percentage of salary for each year of service projected to normal retirement age.

Defined benefit schemes usually provide a multiple of salary as a lump sum. Defined benefit schemes providing pensions can also be found.

Disability

Registered superannuation schemes: No legal rules.

Coverage is common for total and permanent disability, but the practice varies widely. Disability benefits are sometimes covered by a separate scheme.

Defined contribution schemes usually provide a lump sum amounting to either a multiple of salary or the accrued benefit plus a percentage of salary for each year of service projected to normal retirement age.

Defined benefit schemes usually provide a multiple of salary as a lump sum. Defined benefit schemes providing pensions can also be found.

Protection of Rights

Protection of Assets

Registered superannuation schemes: The scheme assets must be held by a trust separately from the assets of the sponsoring employer.

Scheme assets may only be reverted to the sponsoring employer if:

- The trust deed allows it;
- The Government Actuary consents in writing;
- Sufficient assets remain to meet the accumulated benefit obligation;

- The reversion is fair considering how the assets were acquired.

Financial and Technical Requirements / Reporting

Registered superannuation schemes: The trustees of the scheme must ensure that proper books of accounts are kept and that annual accounts are prepared which must be audited by an auditor.

An annual report must be prepared by the trustees and submitted to the Government Actuary that must, among others, cover the following matters:

- A statement of membership changes;
- The annual accounts and the auditor's report on the accounts;
- A statement by the trustees certifying that all contributions required by the trust deed were properly made;
- A certificate by the trustees as to whether scheme assets exceed accumulated benefit obligations;
- Notification by the trustees if more than 10% of scheme assets were invested at any time within the financial year in the sponsoring employer or any associated entity;
- A statement certifying that the contributions are in accordance with actuarial recommendations (defined benefit schemes only);
- The names of, and changes to, the trustees, asset manager, administration manager, actuary, auditor and solicitor of the scheme.

The financial position of schemes that operate on unallocated funding (i.e. defined benefit schemes) must be examined by an actuary at least every 3 years. One copy of the actuarial report must be submitted to the Government Actuary. There are no other legal rules in relation to the funding of defined benefit schemes, and the Professional Standard of the New Zealand Society of Actuaries (the Society has issued Professional Standard Number 2 to govern examinations of defined benefit schemes) is not prescriptive in relation to valuation assumptions or methods. The Government Actuary may take action if, in the Government Actuary's opinion, the financial position of the scheme is inadequate.

Whistleblowing

Registered superannuation schemes: The administration manager, asset manager, actuary or auditor of a scheme who believes that the scheme is not operating in compliance with legal requirements or that the security of benefits is inadequate must inform the Government Actuary of this matter.

Standards for service providers

Registered superannuation schemes: The auditor must be a chartered accountant within the meaning of the Institute of Chartered Accountants of New Zealand Act 1996.

The actuary of a scheme must be a fellow of the New Zealand Society of Actuaries.

A solicitor to the scheme must be enrolled as a barrister and solicitor of Court under the Law Practitioners Act 1982.

Fees

Registered superannuation schemes: No legal rules.

Winding up / Merger and acquisition

Registered superannuation schemes: If the scheme is wound up, the trustees must ensure that audited final accounts are prepared which must be submitted to the Government Actuary. Benefits are payable as defined in the trust deed, with the priorities there assigned. The trustees must advise the Government Actuary and the members in writing how the scheme assets are to be distributed.

The Superannuation Schemes Act provides for certain disclosures to be made in respect of transfers or mergers.

No special priority is given to employee superannuation entitlements on insolvency of an employer.

Bankruptcy: Insolvency Insurance / Compensation Fund

Registered superannuation schemes: There is no requirement for schemes to insure against insolvency, and no compensation fund exists.

Disclosure of information / Individual action

Registered superannuation schemes: Each member must be provided with a copy of the annual report within 6 months of the close of each financial year. Members must also, upon request, be provided with an estimate of their benefits. Trustees are required to certify to members each year whether or not assets are sufficient to pay the benefits should all members withdraw from the scheme, including the cost of arrangements made for continuation of any existing benefits in payment such as pensions.

There is no superannuation ombudsman. The Government Actuary will investigate complaints by members, but in some cases members may be required to take their own legal action to pursue a complaint against trustees.

Other measures

Registered superannuation schemes: Changes to the trust deed that would adversely affect benefits attributable to service up to the amendment date, remove any right of scheme members to participate in the management of the scheme, or increase contributions or fees, may only be made with the written consent of every member and every beneficiary. If the trust deed is amended, the trustees must either provide or obtain a certificate from the administration manager or a solicitor, stating that the amendment will not put the trust deed in conflict with legal requirements. The trustees must lodge a copy of the certificate and the amendment with the Government Actuary.

Tax Treatment

Taxation of employee contributions

Registered superannuation schemes: Contributions are made from taxed income and there are no rebates or other forms of concessions.

Taxation of employer contributions

Registered superannuation schemes: Tax-deductible without limit.

An employer's specified superannuation contributions may be taxed at:

- A flat Specific Superannuation Contribution Witholding Tax (SSCWT) rate of 33 cents in the dollar, or
- A SSCWT rate of 39 cents in the dollar, with the agreement of both employer and employee (an option likely to be taken only by employees who earn more than $60,000 per year), or
- Since 1 April 2004, an optional SSCWT rate based on either the annual salary or wages paid to the employee in the previous standard tax year (where the employee was employed for all of that year), or an estimate of the total amount of salary or wages that the employee will earn in the year ahead (where the employee was not employed for all of the previous tax year). This option benefits those employees earnings less than $38,000 and is offered at the discretion of the employer, or
- The employee's personal tax rate, by treating the contribution as part of the employee's salary or wages, with the agreement of both employer and employee.

Taxation of investment income

Registered superannuation schemes: Income from investment, including realized capital gains, is taxed at a flat rate of 33%.

Taxation of benefits

Registered superannuation schemes: As contributions and investment income are taxed, both pension and lump-sum benefits are tax-exempt.

Regulatory and Supervisory Authorities

Government Actuary: Responsible under the Superannuation Schemes Act 1989 for the registration and supervision of occupational and public superannuation schemes.

The Government Actuary has, among others, the following powers if a scheme is, in the Government Actuary's opinion, not operating in compliance with legal requirements or if the security of benefits is inadequate:

- Require the trustees or administration manager to provide all information that the Government Actuary may specify;
- Direct the trustees to provide members with specified information;
- Direct that the scheme must be run in a specified way (provided that this would not be contrary to trust deed provisions);
- Cancel the registration;
- Order the scheme to be wound up.

The Government Actuary
Insurance and Superannuation Unit
PO Box 10867
The Terrace
Wellington
New Zealand
Tel.: (+64) 4 913 3651
Fax: (+64) 4 913 3652
Internet: www.isu.govt.nz

Thailand

Exchange rate: USD 1.00
equals 38.15 bath (THB)

Regulatory Framework

2005: Provident Fund (Amendment) Act; provides members with options to accept accrued benefits in the form of a lump sum or instalments, portability from the Government Pension Fund to a provident fund and establishes a master fund to facilitate the concept of employee's choice.

1999: Provident Fund (Amendment) Act; transfers the responsibility for supervision of provident fund management companies from the Ministry of Finance to the Office of the Securities and Exchange Commission.

1998: Labour Protection Act; requires all employers with more than 10 employees to establish an employee welfare fund for their employees. Employers who have already established a provident fund need not establish the aforementioned employee welfare fund.

1992: Securities and Exchange Act; prescribes regulations governing the licensing of fund management companies.

1987: Provident Fund Act; promulgates all earlier law on voluntary occupational plans, provides for the registration and tax approval of provident funds; regulates the tax treatment of benefits and requires provident funds to be independent legal entities separate from the sponsoring employer and the provident fund management company.

Plan Profile

Plan sponsors

Single employers may, on a voluntary basis, establish an occupational pension plan for their employees based on an agreement between employer and employees.

According to a cabinet decision of 29 October 1996, all companies that are approved by the Board of Investment, listed on the Stock Exchange of Thailand as well as financial institutions and concessionaires from the government (e.g. telecommunication or gas sectors) must establish a provident fund plan for their employees. This requirement has not been applied to companies listed prior to 1997.

Types of plans

Provident funds: Employers may establish provident fund plans that are defined contribution lump-sum plans that must be implemented through provident funds.

Provident funds must be registered with the Registrar. The role of the Registrar is carried out by the Office of the Securities and Exchange Commission.

Provident funds may be a:

- Single employer fund: one provident fund for one employer where the fund size is relatively large; or
- Pooled Fund: one provident fund for multiple employers where the fund sizes range from small to medium.

Institutional Framework

Provident funds: Provident funds are independent legal entities separate from the sponsoring employer(s) and must be managed by management companies appointed by the fund committee.

A fund committee, where both employer and employees are represented, must be established for each provident fund. The fund committee has the duties to:

- Supervise general activities of the fund;
- Appoint a managing company to manage the contribution and benefit administration and the investment of fund assets;
- Represent the fund in relation to third parties;
- Determine the investment strategy or choose between different investment strategies offered by the fund management company.

Commercial banks, finance companies, securities

companies, mutual fund management companies, life insurance companies or newly established private or public limited companies may be provident fund management companies if they obtain a license issued by the Ministry of Finance to carry out private fund management.

Coverage

Provident funds: Private- and public-sector permanent employees.

The employees of the following employers must be covered:

- State (except civil servants - see below);
- Employers approved by the Board of Investment;
- Companies newly listed on the Stock Exchange of Thailand after 1997;
- Financial institutions;
- Concessionaires from the government (e.g. telecommunication or gas sectors).

The categories of employees eligible for membership are defined in the plan rules and both full-time and part-time employees may be covered. There is, however, no legal requirement to cover part-time employees. Employers must treat male and female employees equally, except where the nature or the conditions of work do not allow the employer to do so.

Civil servants are covered by the Government Pension Fund established under the Government Pension Fund Act.

Self-employed persons may make provision for retirement by means of Retirement Mutual Funds that are tax-favoured personal savings plans.

Financing / Investment

Sources of funds

Provident funds: Contributions must be paid by both employers and employees and are defined in fund rules.

Employee contributions

Provident funds: Employees contribute between 2% and 15% of salary.

If employees want to contribute more than 15% of salary, they must obtain approval from the Ministry of Finance.

Many employers provide employees with a range of possible contribution rates, e.g. varying from 5% to 12% of salary. The employee must then determine the exact contribution rate for a certain period.

Employer contributions

Provident funds: Employers must at least match employee contributions.

Employers contribute between 2% and 15% of salary.

If employers want to contribute more than 15% of the employee's salary, they must obtain approval from the Ministry of Finance.

Other sources of funds

Provident funds: Money or other properties donated and the returns earned thereon.

Methods of financing

Provident funds: Funded.

Asset management

Provident funds: Provident fund assets must be managed by the management company appointed by the fund committee (see section Institutional framework).

Provident fund management companies usually offer different investment policies (see below) with varying levels of risk. The provident fund committee usually decides the strategy to be adopted for the provident fund assets. Fund members may be allowed to choose the investment strategy applied to the accumulated capital themselves. Members may change the strategy once a year.

Fund management companies usually offer four different types of investment policies:

- Equity fund: focuses on investment in equities in order to increase the fund size via capital gains. At least 65% of the net asset value (NAV) must be invested in equities. The remainder may be invested in deposits or fixed income assets.
- Fixed income fund: focuses on investment in fixed income assets in order to increase the fund size in form of interest gains. Investments are in deposits and fixed income assets such as government bonds, treasury bills, certificates of deposit, promissory notes, bills of exchange and debentures.
- Mixed fund: focuses on investment in deposits, fixed income assets and equities:

— Having equity limitation: Specifies maximum limits in equities such as 10%, 20%, or 40% of the NAV. However, equities must not exceed 65% of the NAV; otherwise, it is classified as an Equity fund.

— Free hand: Investments are managed upon the discretion of the fund manager.

- Specialised fund: Investments do not focus either on equities or fixed income assets but has an exclusive investment form such as money market fund, guaranteed fund or capital protected fund.

Of total assets invested:

- A maximum of 20% may be in securities issued by a financial institution;
- A maximum of 15% may be in rated securities issued by one company;
- A maximum of 15% may be in unrated securities;
- A maximum of 15% may be in property funds;
- A maximum of 5% may be in unrated securities issued by one company.

In addition, a maximum of 15% of total assets may be invested in the sponsoring employer and its affiliated persons.

In order to avoid conflicts of interest, provident fund assets, unless fund committee's consent is obtained, must not be invested in:

- Securities or assets issued or otherwise related to the management company or one of its affiliated companies;
- Investment units or warrants for investment units of a mutual fund managed by the management company;
- Securities or assets of a company for which the management company has been the financial advisor, underwriter or selling agent.

Provident fund assets must be kept by a custodian.

Benefit provisions

Acquisition and maintenance of rights

Waiting period

Provident funds: No legal rules.

Employees are usually eligible for membership after the end of their employment probation period.

Vesting rules

Provident funds: No legal rules.

Employee contributions vest immediately. Employer contributions usually vest according to a sliding scale beginning after 2 years of membership with full vesting after 5 to 10 years.

Upon terminating employment before vesting of employer contributions starts, employees are entitled to a refund of the capital accumulated from their own contributions plus interest.

Preservation, portability, transferability

Provident funds: An employee's accumulated capital can be preserved for a period of 1 year before transferring to a new provident fund if appropriate. Amendments to allow portability from the Government Pension Fund to a provident fund are in process.

Upon terminating employment before retirement, employees are fully entitled to receive the accumulated capital from their own contributions plus the vested part of the employer contributions plus interest as a lump sum.

Retirement benefits

Benefit qualifying conditions

Provident funds: No legal rules.

Most provident fund plans provide for a retirement age of between 55 and 60 for both men and women, since favourable tax rules apply to benefits paid from age 55 (see section Taxation of benefits).

Benefit structure / formula

Provident funds: Defined contribution.

A lump sum is provided at termination of membership (e.g. due to retirement). There is no requirement to buy an annuity.

The lump-sum benefit equals the accumulated employee contributions and the vested part of the employer contributions plus interest.

Benefit adjustment

Provident funds: Not applicable, since benefits are paid as lump sums.

Survivors

Provident funds: Upon death of a member, the accumulated employee contributions and the vested part of the employer contributions plus interest are paid as a lump sum to the beneficiaries indicated in the deceased's last will. In the absence of such, the lump sum is divided among the spouse, orphans and parents. If the deceased has no such relatives, the capital must devolve on the fund.

Disability

Provident funds: Upon termination of employment due to disability, the disabled person receives the accumulated employee contributions and the vested part of the employer contributions plus interest as a lump sum.

Protection of Rights

Protection of Assets

Provident funds: Provident funds are independent legal entities that hold assets separate from the sponsoring employer and the provident fund management company.

Provident fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

Provident funds: Provident fund management companies must prepare yearly financial statements in accordance with the accounting standards for investment companies specified by the Institute of Certified Accountants and Auditors of Thailand. Financial statements must be examined, and commented on, by an auditor and be submitted to the Office of the Securities and Exchange Commission.

Whistleblowing

Provident funds: No legal rules.

Standards for service providers

Provident funds: Custodians must obtain approval from the Office of the Securities and Exchange Commission (OSEC) to carry out custodial functions and must be independent of the management company. Approval is granted if the custodian:

- Is a commercial bank, finance company, securities company, mutual fund management company, life insurance company, another financial institution subject to certain requirements, or a limited company whose main business objective is to be custodian of securities or financial instruments;
- Has proper operating systems to carry out custody business operations;
- Has competent officers.

Auditors must be certified public accountants and must in addition obtain approval from the OSEC if they provide services to provident funds with more than 100 members.

Provident funds are obliged to engage net asset value (NAV) verifiers to verify the correctness of the NAV calculated by management companies. NAV verifiers must be trustees or custodians who possess necessary operating systems to carry out NAV verification functions.

Fees

Provident funds: Management fees are usually based on the net asset value of the provident fund

and freely negotiable. Management companies are prohibited from charging fees below their costs.

Winding up / Merger and acquisition

Provident funds: The fund is wound up upon:

- Dissolution of the sponsoring employer;
- Resolution by the general meeting of the fund to wind up the fund;
- Order by the Office of the Securities and Exchange Commission (OSEC);
- Occurrence of an event requiring the dissolution as provided by the provident fund's rules.

The fund committee (see section Institutional framework) must notify the OSEC and arrange for the liquidation of the fund.

A liquidator, who may make partial payments to members during the liquidation process, must be appointed. After the completion of liquidation, all outstanding amounts must be paid to employees.

Bankruptcy: Insolvency Insurance / Compensation Fund

Provident funds: There is no requirement for provident funds to insure against financial loss, and no compensation fund exists.

Disclosure of information / Individual action

Provident funds: Provident fund management companies must disclose financial information about the performance of the managed funds to the fund committee (see section Institutional framework).

Fund members must be provided twice a year with a report containing information on the total accumulated capital in their accounts and the employer and employee contributions paid in the previous 6 months.

Members of a provident fund may complain to the Office of the Securities and Exchange Commission (OSEC) about actions of a provident fund management company. The OSEC must forward the case to the management company which must resolve the problem, clear the complaint and report back to the OSEC within 30 days. If a settlement is not reached within this period, an arbitration process must be carried out for which the OSEC designates an arbitrator to resolve the complaint within 90 days.

Other measures

Provident funds: Management companies must not promise any guaranteed minimum rate of return, fixed benefit or insurance against any loss.

Tax Treatment

Taxation of employee contributions

Provident funds: Employee contributions to a registered provident fund are tax-deductible up to THB 10,000. Contributions that exceed that amount are tax-exempt up to 15% of the salary with a limit of THB 290,000.

Taxation of employer contributions

Provident funds: Employer contributions up to 15% of salary are tax-deductible as expenses for the purpose of calculating corporate income.

Taxation of investment income

Provident funds: Tax-exempt.

Taxation of benefits

Provident funds: Tax-exempt if an employee retires at age 55 or over with 5 years or more of membership in the plan.

A partial tax exemption is granted only to employees with at least 5 years of employment upon termination of employment before retirement.

Regulatory and Supervisory Authorities

Office of the Securities and Exchange Commission (OSEC): Assumes the role of Registrar of provident funds and is the regulatory and supervisory authority of provident funds and provident fund management companies. The OSEC

has the responsibilities to:

- Approve the establishment of provident funds (through registration);
- Approve amendments to fund rules;
- Issue rules and regulations regarding the management of provident funds;
- Supervise fund management companies;
- Approve and supervise custodians;
- Issue rules with regard to auditors of provident funds;
- Issue rules with regard to the disclosure of information to fund members and the supervisory authority;
- Report the status of the provident fund industry to the Ministry of Finance twice a year.

The OSEC may order the winding up of a fund and appoint a liquidator to the fund if:

- There is an event indicating that the management of the fund is not in compliance with legal requirements;
- There is an event indicating that the fund's operation cannot continue.

The OSEC may appoint an officer to examine the management of a fund and in order to do so:

- Enter the fund's office or the fund manager's office to examine the business records, and assets and liabilities of the fund;
- Order the fund committee members, the fund manager, or the fund's officers to disclose any information with regard to the fund.

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ASIA & PACIFIC - Mandatory

Information valid at 01-07-2006

Australia

Exchange rate: USD 1.00 equals
1.32 Australian dollars (AUD)

Regulatory Framework

In Australia, the term *Superannuation* refers to savings specifically dedicated to the provision of financial support in retirement. The term is preferred to pension for historical reasons (largely because of the long-standing preference for lump-sum benefits rather than income streams).

2001: Family Law Amendment Act (Superannuation); enables superannuation interests to be divided by agreement or court order on marriage breakdowns from 28 December 2002.

2001: Financial Sector Act (Collection of Data); enables the collection by the Australian Prudential Regulation Authority of information to assist it in the prudential regulation of financial institutions, including superannuation funds.

1998: Financial Institutions Supervisory Levies Collection Act; makes provision for the collection of levies imposed in respect of various financial institutions, including superannuation funds.

1998: Retirement Savings Account Providers Supervisory Levy Imposition Act; imposes levies on the providers of retirement savings accounts.

1998: Australian Prudential Regulation Authority Act; establishes the functions and powers of the Australian Prudential Regulation Authority.

1997: Retirement Savings Accounts Act; allows for retirement savings accounts providing benefits at retirement or death to be offered by certain financial institutions.

1993: Superannuation Act (Resolution of Complaints); establishes the Superannuation Complaints Tribunal to deal with the resolution of complaints about decisions and conduct of trustees of superannuation funds.

1993: Superannuation Levy Act (Financial Assistance Funding); imposes levies on superannuation funds (except for self-managed superannuation funds) for the purpose of providing financial assistance to certain superannuation funds that have suffered loss as a result of fraudulent conduct or theft.

1993: Superannuation Industry Act (Supervision); makes provision for the prudent management of superannuation funds and for their supervision by the Australian Prudential Regulation Authority, Australian Securities Investment Commission and the Australian Taxation Office.

1992: Superannuation Guarantee Act (Administration); forms the basis for Australia's mandatory superannuation system and establishes the superannuation guarantee that requires all employers to pay a determined percentage of employees' salaries into a regulated superannuation fund on behalf of employees.

1991: Superannuation Supervisory Levy Imposition Act (Self-managed Superannuation Funds); imposes a levy on the lodgement of certain returns for self-managed superannuation funds.

1987: Superannuation Taxation Act (Self-managed Superannuation Funds); relates to taxation in respect of self managed superannuation funds.

Types of Schemes

All covered persons must become members of a superannuation scheme implemented through a regulated superannuation fund.

Employers under the superannuation guarantee are required to contribute a percentage of employees' salary into the regulated superannuation fund on behalf of employees.

Employers are not required to contribute the superannuation guarantee if the employee is:

- Paid less than AUD 450 (before tax) within any calendar month;
- Under age 18 and works no more than 30 hours

per week;
- Over age 70;
- Paid to do work of a domestic or private nature for 30 hours or less a week;
- A nonresident paid for work done outside Australia;
- Certain type of foreign executive;
- Temporarily working in Australia for an overseas employer and are covered by a bilateral superannuation agreement.

Employees who work for a corporation and had their superannuation contributions paid under a state award have the right to choose the superannuation fund into which their employer contributions are paid.

Employees are not obliged to choose a superannuation fund. If they do not make a choice, the employer will choose the superannuation fund into which the contributions will be paid.

The main types of superannuation funds are:

- Public-sector funds;
- Employer-sponsored superannuation funds that are open only to employees of the sponsoring employer;
- Industry superannuation funds that are generally open only to employees of employers within a certain industry, although some industry funds are open to members of the public;
- Retail funds that are open to the public at large;
- Pooled superannuation trusts that are wholesale unit trusts and in which superannuation funds, rather than individuals at the retail level, may invest;
- Self-managed superannuation funds that are funds with fewer than five members, where each member is also a trustee of the fund. These funds are regulated by the Australian Taxation Office (ATO);
- Retirement savings accounts (RSAs) that are a contractual form of low-cost savings similar to term deposits. They are simple capital guaranteed products offered by deposit taking institutions i.e. banks or credit unions) or by life insurance companies. RSAs currently account for less than 1% of superannuation assets and are not covered in the following sections.

Some employees negotiate voluntary additional contributions from their employer out of their pre-tax salary. These contributions, commonly referred to as salary sacrifice, are treated favourably as employer contributions for taxation purposes and reduce the employees' assessable income for taxation purposes.

Employees may also pay voluntary top-up contributions to the same fund to which their employer contributes or enter into a personal superannuation arrangement via an open retail fund. The contributions and the benefits attributable to these contributions are not taxable (although investment income is taxable), and such contributions are known for income tax purposes as undeducted contributions (see section Tax treatment).

Various large employers and public-sector institutions pay additional superannuation contributions over and above the percentage required under the superannuation guarantee. Many public-sector employees are also required to contribute out of their after-tax salary or wages. However, the conditions tend to vary between employers, with benefits often depending on length of service and other employment condition considerations.

There is no legally prescribed minimum vesting period for the part of the benefit financed by voluntary additional employer contributions, and this depends on scheme rules. However, all contributions to defined contribution schemes must be allocated within 28 days after the end of the month in which the contribution is made.

Institutional Framework

All superannuation funds: All superannuation funds (other than retirement saving accounts and some public-sector superannuation funds) must be established as trusts with the sole purpose of providing retirement and death benefits for members. The trustee must be either a constitutional corporation or a group of individuals.

The trustees are responsible for the prudent management, operation and investments of the fund.

After the establishment of a superannuation fund, the trustees must notify the Commissioner of Taxation that they elect to have the fund regulated under the Superannuation Industry Act and, unless it is a self-managed superannuation fund supervised by the Australian Taxation Office (ATO), supervised by the Australian Prudential Regulation Authority (APRA). A decision to be a regulated superannuation fund is irrevocable. The ATO maintains a register of regulated superannuation funds.

While being regulated and supervised under the Superannuation Industry Act is not compulsory, there are incentives for trustees to choose to be regulated:

- Only regulated superannuation funds that comply with the relevant legislation are eligible to receive superannuation guarantee contributions;
- Only regulated superannuation funds may be designated complying superannuation funds and as such may claim tax concessions.

Exempt public-sector superannuation funds are those established under State or Territory legislation and exempted from, but operated according to the principles of, the Superannuation Industry Act and which are not able to meet all the detailed legal requirements. These funds are also eligible to receive superannuation guarantee contributions.

Exempt and nonregulated superannuation funds are not covered further in the following sections.

Regulated superannuation funds: All trustees of prudentially regulated funds must be licensed by the Australian Prudential Regulation Authority (APRA). The license is known as an RSE license (i.e. license to operate a Registrable Superannuation Entity) and is distinguishable from an Australian Financial Services (AFS) license issued by the Australian Securities and Investments Commission, which is the corporate regulator and regulator of market conduct and disclosure and advice).

The conditions for obtaining an RSE license include requirements for all trustees to meet minimum standards of fitness and propriety, have adequate resources, a risk management framework (including a fraud control plan), and systems to manage outsourcing, as well as any other conditions that the APRA considers appropriate. Retail fund trustees still need to satisfy capital adequacy requirements in addition to the universal licensing requirements. The requirements must be met on an ongoing basis.

Once licensed, trustees must register the funds they operate with the APRA before those funds may accept superannuation guarantee contributions.

Trustees may engage or authorize service providers (i.e. external fund administrators, banks, insurance companies, actuaries, lawyers and asset managers) to act or do things on their behalf, however, the trustees retain responsibility for their functions.

Coverage

Covered population

Regulated superannuation funds: Under the compulsory superannuation guarantee (see section Types of schemes) contributions must be made in respect of all private- and public-sector employees between age 18 and age 70 earning AUD 450 or more per month.

Membership is voluntary for self-employed persons, with tax concessions offered to those who decide to contribute to a fund.

Enforcement of affiliation

Regulated superannuation funds: In the event that an employee does not exercise the right to choose a superannuation fund, employers must nominate a default fund.

Employers that do not comply with the requirement to contribute to a regulated superannuation fund on behalf of their employees are subject to a penalty in the form of the superannuation guarantee charge payable to the Australian Taxation Office (ATO). This penalty charge comprises the shortfall of the minimum level of superannuation contributions in addition to interest and an administrative cost component. The charge amount is not a tax-deductible business expense (unlike the superannuation guarantee contribution). The system operates on a

self-assessment basis, subject to supervision by the ATO.

Financing / Investment

Sources of funds

Member contributions

Regulated superannuation funds: It is not compulsory for members to contribute. They may voluntarily contribute from their normal wage or salary after tax has been deducted, subject to fund rules.

Employees may agree with their employers to forego part of their future salary or wages (i.e. salary sacrifice). The amount of salary sacrificed is paid as employer contributions to a superannuation fund.

A salary sacrifice can increase the employee's superannuation benefits and reduce the assessable income for tax, by an amount similar to the sacrificed salary, and the employer can obtain a tax deduction for the increased superannuation contributions.

Employer contributions

Regulated superannuation funds: The compulsory employer superannuation guarantee contribution is 9% of the employee's earnings base.

The earnings base may be set out in an award, an agreement or contract with the employer, or determined by the employee's superannuation fund. If none of these apply, the earnings base is based on ordinary time earnings, which includes the ordinary pay, shift allowances and commissions. From 1 July 2008, employers must use ordinary time earnings as the earnings base when calculating the superannuation guarantee contribution.

The maximum earnings base considered for employer contributions is AUD 33.270 per quarter.

Employer contributions must be paid quarterly.

Employers are not required to contribute the superannuation guarantee if the employee is:

- Paid less than AUD 450 (before tax) within any calendar month;
- Under age 18 and works no more than 30 hours per week;
- Over age 70;
- Paid to do work of a domestic or private nature for 30 hours or less a week;
- A nonresident paid for work done outside Australia;
- Certain type of foreign executive;
- Temporarily working in Australia for an overseas employer and are covered by a bilateral superannuation agreement.

Employees may agree with their employers to forego part of their future salary or wages (i.e. salary sacrifice). The amount of salary sacrificed is paid as employer contributions to a superannuation fund. Salary sacrificed contributions can then count towards the 9% employer contributions required to meet the superannuation guarantee.

A salary sacrifice can increase the employee's superannuation benefits and reduce their assessable income for tax, by an amount similar to the sacrificed salary, and the employer can obtain a tax deduction for the increased superannuation contributions.

Other sources of funds

Regulated superannuation funds: Members may make voluntary contributions in respect of their spouses and children, subject to fund membership criteria.

The government makes co-contributions of up to AUD 1,500 per financial year for low-income members who make voluntary contributions from their normal after-tax salary to a regulated superannuation fund.

Methods of Financing

Regulated superannuation funds: Funded, with the exception of some of the public-sector funds that are financed on a pay-as-you-go basis.

Asset Management

Regulated superannuation funds: Trustees must formulate and give effect to an investment strategy

that has regard to all the circumstances of the fund including, but not limited to:

- The risk involved in making, holding and realizing, and the likely return from, the fund's investments having regard to its objectives and its expected cash flow requirements;
- The composition of the fund's investments as a whole including the extent to which the investments are diverse and involve the fund in being exposed to risks from inadequate diversification;
- The liquidity of the fund's investments having regard to its expected cash flow requirements;
- The ability of the fund to discharge its existing and prospective liabilities.

Trustees may manage the assets themselves to give effect to the investment strategy or contract this task to an asset manager. Asset managers must be a body corporate and must not be disqualified from practice for any reason.

The prudent person principle governs the investment decisions of trustees and, through their delegation, appointed asset managers.

Legally defined trust covenants encourage portfolio diversification, but diversification is not explicitly required. Rather, trustees are required to have regard to a fund's exposure to risks arising from inadequate diversification when they formulate a fund's investment strategy.

Other than the following, there are no legal restrictions on fund assets:

- Of total assets invested, a maximum of 5% may be in the sponsoring employer or other related party (i.e. self-investment);
- Superannuation funds are generally prohibited from borrowing or maintaining an existing borrowing of money (subject to certain exceptions such as to make a payment to a beneficiary in certain circumstances);
- Restrictions apply on lending to members and on acquiring assets from members.

Benefit provisions

Preservation, portability, transferability

Regulated superannuation funds: Upon changing employment, a member's accrued rights are either preserved in the original fund or transferred to another fund within the superannuation system with the member's consent. Preserved benefits are increased in line with annual investment returns.

In respect of benefits arising from defined contributions, members may choose, at least once a year, to transfer accrued benefits from one complying regulated fund to another.

Retirement Benefits

Benefit qualifying conditions

Regulated superannuation funds: The retirement age is 55 for men and women born before 1 July 1960 increasing to age 60 for those born after 30 June 1964.

Members must be permanently retired from the workforce or age 65 in order to access the benefit. However, from July 2006 members age 55 or more may continue to work and receive superannuation benefits if the latter are paid as an income stream.

Withdrawal of funds before retirement

Regulated superannuation funds: Early withdrawals are permitted in limited exceptional circumstances on compassionate grounds or in cases of severe financial hardship.

Temporary residents may take their superannuation contributions when they permanently leave Australia, after paying a withholding tax.

Benefit structure / formula

Regulated superannuation funds: The majority of regulated superannuation funds are defined contribution, with a small number of defined benefit schemes. Many of the defined benefit schemes are closed to new members.

Benefits can be paid as pensions provided by the fund, annuities provided by life insurance companies, lump

sums or a combinations of them, although lump sums are still most common.

Since July 2006, members aged 55 or more can continue working reduced hours and top-up their reduced income by starting to receive retirement benefits from superannuation funds if they are paid as a regular income stream (i.e. pension or annuity).

Benefit adjustment

Regulated superannuation funds: The indexation of pensions and annuities in payment is a commercial decision, within certain legal restrictions, of the institution offering the income stream product.

Some public-sector funds guarantee full inflation protection to pensioners. In the private sector, it is more common for increases to be made on a discretionary basis or to be limited to a maximum amount, such as 5%.

Survivors

Benefit qualifying conditions

Regulated superannuation funds: If a member dies before retirement, benefits may be paid to the deceased member's legal personal representative or one or more dependents. Dependents are a spouse (married or nonmarried) or a child, including an adopted child, a step-child or an illegitimate child. There is no legal age condition for eligibility to survivor benefits.

The rules of a superannuation fund may permit a member to give a binding notice to the fund trustee regarding the provision of benefits on or after the member's death to one or several nominated persons being the member's legal personal representative or dependents.

Benefit structure

Regulated superannuation funds: The survivor benefit structure depends on the rules of the fund or the benefit being paid.

A general rule is a requirement that the maximum benefit payable to survivors must not be greater than 100% of the benefit that was, or would have been payable, to the deceased member. Different levels of survivor benefits provided by a pension will be reflected in the purchase price of the income stream product in question.

Any apparent discrimination between widows and widowers may be related to the higher life expectancy for women, reflected in relatively lower annual pension payments.

Disability

Benefit qualifying conditions

Regulated superannuation funds: Members may qualify for benefits if they become permanently disabled, having ceased gainful employment on the grounds of ill-health (i.e. physical or mental). The trustees must be reasonably satisfied that the member is unlikely, due to ill-health, to return to gainful employment for which the member is reasonably qualified by education, training, or experience.

Benefit structure

Regulated superannuation funds: The value of the total accrued rights is paid as one or several lump sums, a pension, or a combination of a pension and lump sums.

Protection of Rights

Protection of Assets

Regulated superannuation funds: Trustees must hold the fund assets completely separate from their own assets as well as from the assets of the sponsoring employer or any associate of the sponsoring employer.

If the trustee of an open retail fund does not meet capital adequacy criteria, all fund assets must be held by a custodian that satisfies the capital requirements.

With some exceptions, there is a general rule that a trustee must not alter governing rules or do anything else that would adversely alter the right or claim of beneficiaries to their accrued benefits in the fund.

Financial and Technical Requirements / Reporting

Regulated superannuation funds: The trustees must prepare the following accounts and statements once a year:

- A statement of financial position;
- An operating statement;
- A statement of cash flows.

The trustees must appoint annually an approved auditor (see section Protection of rights, Standards for service providers) to report on the operations of the fund and must provide the auditor with any requested documents.

Prudentially regulated superannuation funds must report to Australian Prudential Regulation Authority (APRA) within 4 months of the end of each financial year. Self-managed superannuation funds must report to the Australian Taxation Office (ATO) within 9 months of the end of each financial year.

Other reporting requirements cover significant adverse events and funding and solvency in the case of defined benefit funds.

Whistleblowing

Regulated superannuation funds: If actuaries or auditors of a regulated superannuation fund believe that a contravention of legal requirements has occurred in relation to the fund that may affect the interests of members or beneficiaries, or that its financial position may be, or become, unsatisfactory, they may inform the Australian Prudential Regulation Authority (APRA) without being liable in a civil action or civil proceeding in relation to having informed APRA.

If actuaries or auditors do not inform APRA, they must request the trustees in writing to provide them with a report about the action that the trustees have taken, or propose to take, with regard to the matter. If the trustees do not comply with the request or if the actuaries or auditors are not satisfied by the action taken or proposed, they must provide a written report to APRA about the matter as soon as practicable.

Standards for service providers

Regulated superannuation funds: The custodian of assets of retail funds must meet certain capital adequacy requirements.

Investment managers must be appointed in writing and must not be an individual (except in the case of self-managed funds, where an individual may be appointed).

Auditors must either be approved by the Australian Prudential Regulation Authority (APRA) or be registered company auditors, as well as belonging to at least one of a number of specified professional accounting organizations.

Actuaries that provide services to regulated superannuation funds must be Fellows or Accredited Members of the Institute of Actuaries of Australia.

Agreements for the provision of services relating to material business activities of a trustee must contain certain standard conditions.

Fees

Regulated superannuation funds: Member protection rules prohibit administration fees that exceed investment returns being charged on accounts with a balance less than AUD 1,000 except in periods of bad investment returns (i.e. a period in which investment returns are less than administration costs). In such a period, member balances may be reduced if costs are apportioned in a fair and equitable manner, e.g. by limiting charges to the investment return credited to the member's account plus a maximum of AUD 10.

Winding up / Merger and acquisition

Regulated superannuation funds: If an acting trustee is appointed (see section Supervisory and regulatory authorities), the Australian Prudential Regulation Authority (APRA) may formulate a scheme for the winding up or dissolution of the fund.

In the event that a fund is wound up and members are transferred without choice to another fund, the successor fund must provide at least equivalent rights

and benefits.

Bankruptcy: Insolvency Insurance / Compensation Fund

Regulated superannuation funds: Regulated superannuation funds are not required to insure against bankruptcy or insolvency of the sponsoring employer. There is no government-provided benefit guarantee.

There is, however, provision for financial assistance to prudentially regulated superannuation funds that have suffered loss as a result of fraudulent conduct or theft. This financial assistance is funded through a levy on prudentially regulated funds and is provided on decision of the government.

Disclosure of information / Individual action

Regulated superannuation funds: Regulated superannuation funds must inform new members of the following matters within 3 months of joining:

- The main fund rules;
- The fund's management and financial situation;
- The fund's investment performance.

Funds must send existing members a benefit statement at least once a year. The information provided must include:

- The contact details of the fund;
- Details of the withdrawn benefits;
- Details of the circumstances in which accrued rights may be rolled over to an eligible rollover fund and details on this fund (see section Preservation, portability, transferability);
- If applicable, disclosure of contributions and rolled-over benefits;
- The fees, charges and expenses deducted;
- The employer contributions and any unpaid contributions.

Funds must also inform members of the occurrence of a significant event, defined as any event in relation to the fund that the trustees believe the members would reasonably expect to be informed of. This information is generally required within 3 months, or within 12 months if the event is not adversely affecting the members. The members must in any case be informed of significant events in the three following specific instances:

- Changes to the fund rules which adversely affect the members;
- The transfer of members to a different category of membership or to a different fund;
- The receipt by the fund of a notice of noncompliance from the Australian Prudential Regulation Authority (APRA).

Funds must, upon request, provide members with the following information within 1 month:

- The fund rules;
- The audited accounts;
- The latest actuarial report (where relevant) and the latest annual report of the fund.

Funds must provide the following information to members who leave a regulated superannuation fund within 1 month of leaving:

- The contact details of the fund;
- Details of withdrawn benefits, death benefits and membership continuation options;
- Details of the funds' internal complaints arrangements;
- Details of the functions of the Superannuation Complaints Tribunal (see below).

The Australian Securities and Investments Commission (ASIC) is the government body responsible for all consumer protection matters in the financial services sector, particularly in connection with product disclosure. ASIC plays the leading role in ensuring that consumers receive adequate information to make informed decisions about financial products.

Member complaints should be dealt with in writing within 90 days, and when the fund advises complainants about the outcome of a complaint they must also be advised of the existence and function of the Superannuation Complaints Tribunal (SCT).

The SCT is a statutory body established to deal with complaints about decisions of superannuation fund trustees that affect the rights and benefits of individual

members and beneficiaries. Complaints may only be made on the grounds that the decision concerned is unfair or unreasonable. The SCT tries to resolve complaints by conciliation or voluntary arbitration. A SCT decision may only be overturned on a question of law, by appeal to the Federal Court. The SCT cannot hear a complaint unless it has already been made to the trustees under the funds' internal complaints arrangements.

Other measures

Regulated superannuation funds: The legislation provides strict controls on the circumstances in which payments may be made out of a fund to a sponsoring employer.

Tax Treatment

Regulated superannuation funds: Regulated superannuation funds that are in actual compliance with the Superannuation Industry Act and other legal requirements gain complying superannuation fund status. Tax concessions are only granted if a regulated fund is a complying fund. Whether a regulated superannuation fund is complying with the applicable legislation is determined by the regulator on a yearly basis taking into account the information provided by the trustees in the fund annual return, together with the audit certificate and the results of ongoing supervision.

Taxation of member contributions

Regulated superannuation funds: If eligible members make a claim for a personal income tax deduction for any voluntary contributions made (known as undeducted contributions, see section Sources of funds, Member contributions), the fund pays 15% tax on them when received (see section Taxation of investment income).

Superannuation contributions paid by a self-employed person are deductible up to AUD 5,000 plus 75% of the contributions over AUD 5,000.

Members may claim a tax offset in their income tax return for contributions paid for their spouses into their superannuation account if the spouse's assessable income and reportable fringe benefits is up to AUD 13,800.

Member's contributions paid on behalf of a child do not attract a tax deduction or tax offset.

Taxation of employer contributions

Regulated superannuation funds: Employer contributions are tax-deductible, but the fund pays 15% tax on them when received (see section Taxation of investment income).

Taxation of investment income

Regulated superannuation funds: Taxable income to the fund, which includes member and employer contributions and net investment earnings, is taxed at 15%. Investment income from assets segregated to provide pension payments are tax-exempt.

Taxation of benefits

Regulated superannuation funds: Benefits are taxed favourably up to the Reasonable Benefit Level (RBL). The RBL is the maximum concessionally taxed superannuation benefit that a person can receive over a lifetime. Superannuation benefits exceeding a person's RBL are taxed at the highest marginal tax rate.

In order to encourage the payment of regular income streams rather than lump sums, the RBL for pensions is twice the RBL for lump sums and applies if at least 50% of the accrued benefits are taken in form of a pension or annuity. The RBL is AUD 678,149 for lump sums and AUD 1,356,291 for pensions as of 1 January 2006 and is indexed annually.

Since 1 July 2007, benefits paid after age 60 are tax-exempt, regardless of whether paid as a lump sum, as a pension or as an annuity.

Regulatory and Supervisory Authorities

Australian Prudential Regulation Authority: Regulates from a prudential perspective general and

life insurance companies, superannuation funds and deposit-taking institutions such as banks, building societies and credit unions. It is funded primarily from annual levies on supervised institutions.

The Australian Prudential Regulation Authority (APRA) has the power to suspend or remove a trustee in which case it must appoint an acting trustee for the suspension period or until the vacancy is filled. The APRA may direct the acting trustee to undertake specific actions in relation to the fund.

The APRA may give written notice to trustees requiring them to provide information and produce any books relating to the affairs of the fund.

The APRA may require trustees to appoint an individual or a committee of individuals to carry out an investigation of the whole or a specified part of the financial position of a fund as at a specified time or in relation to a specified period and make a report on that investigation.

The APRA may conduct an investigation of whole or part of a regulated superannuation fund if it believes that:

- A contravention of legal requirements may have occurred or be occurring in relation to the fund;
- The financial position of the fund may be unsatisfactory;
- The trustees of the fund have refused or failed to give effect to a decision of the Superannuation Complaints Tribunal (see section Protection of rights, Disclosure of information / individual action).

For the purpose of conducting the investigation, the APRA may appoint a special inspector who is a member of its staff or the staff of another regulatory authority.

Australian Prudential Regulation Authority
Level 26,
400 George Street,
Sydney NSW 2000,
Australia
Tel.: +(61) 2 9210 3000
Fax: +(61) 2 9210 3411
Internet: www.apra.gov.au

Australian Taxation Office: Regulates self-managed superannuation funds and administers the superannuation guarantee legislation and maintains a register of regulated superannuation funds.

Australian Taxation Office
2 Constitution Avenue,
Canberra ACT 2600,
Australia
Internet: www.ato.gov.au

Australian Securities and Investment Commission: Responsible for all consumer protection matters in the financial services sector (including superannuation, particularly concerning product disclosure). It plays the leading role in ensuring that consumers receive adequate information to make informed decisions about financial products.

Australian Securities and Investment Commission
Level 18,
No 1 Martin Place,
Sydney NSW 2000,
Australia
Tel.: +(61) 2 9911 2000
Fax: +(61) 2 9911 2333
Internet: www.asic.gov.au

Hong Kong, China

Exchange rate: USD 1.00 equals
7.75 Hong Kong dollars (HKD)

Regulatory Framework

1998: Mandatory Provident Fund Schemes (General) Regulation; further implements the Mandatory Provident Fund Schemes Ordinance, includes limits on the investment of scheme assets, requirements on trustees and other service providers and rules concerning enrolment, contributions, portability and withdrawal of accrued benefits and a compensation fund to be established by the Mandatory Provident Fund Schemes Authority (MPFA).

1995: Mandatory Provident Fund Schemes Ordinance; provides for the establishment of the Mandatory Provident Fund Schemes Authority (MPFA) and for the establishment and registration of mandatory provident fund schemes, defines the contribution and benefit structure under these schemes, provides for the approval of persons as trustees of these schemes, defines coverage and classes of exempt persons, and includes regulations protecting the rights of scheme members.

Types of Schemes

Employers must enrol eligible employees in, and self-employed persons must join, a mandatory provident fund scheme. Mandatory provident fund schemes are defined contribution savings schemes that provide a lump sum at retirement. Employers may choose between three types of schemes (see below) and make arrangements for employees to become a member of the scheme chosen, whereas the self-employed must join a master trust scheme or, if eligible, an industry scheme. Employers having two or more eligible employees may enrol different employees in different schemes.

Employees, employers and self-employed persons may make voluntary contributions to the mandatory provident fund scheme.

Employer-sponsored schemes: Occupational mandatory provident fund scheme sponsored by a single employer (and its associated companies) the membership of which is only open to the employees of this employer (and of its associated companies).

Industry schemes: Industry-wide mandatory provident fund scheme established for employees in industries with high labour mobility. At present, two industry schemes exist for the catering and construction industries. These schemes are only open to employers and self-employed persons in those industries. Accrued pension rights are fully portable within the industry. Employers in those industries may choose to enrol their employees in the industry scheme or in the other two types of schemes (i.e. employer-sponsored schemes or master trust schemes).

Master trust schemes: Mandatory provident fund scheme the membership of which is open to the employees of more than one employer, self-employed persons and persons with accrued benefits transferred from other schemes. By pooling the contributions of small employer units together for administration and investment, such master trust schemes may have a high degree of efficiency resulting from economies of scale.

Institutional Framework

All schemes: All schemes must be established under a trust with trustees approved by the Mandatory Provident Fund Schemes Authority (MPFA).

Registered trust companies and individuals may apply to the MPFA for approval as trustee for the purposes of the Mandatory Provident Fund Schemes Ordinance.

Approval as trustee is granted to individuals if they:

- Ordinarily reside in Hong Kong;
- Satisfy the MPFA that they are persons of good reputation and character and, in particular, have not been found guilty, whether in Hong Kong or elsewhere, of an offence involving fraud or dishonesty.

A registered trust company incorporated in Hong Kong which applies for approval as trustee must:

- Comply with the prescribed capital adequacy requirements;
- Have at least five directors of which all must be individuals;
- Have sufficient presence and control in Hong Kong;
- Satisfy the MPFA that it is capable of carrying out the business of administering mandatory provident fund schemes;
- Not do any other business than trust business;
- Satisfy the MPFA that all of the controllers of the company are persons of good reputation and character and, in particular, have not been found guilty, whether in Hong Kong or elsewhere, of an offence involving fraud or dishonesty;
- Satisfy the MPFA that the chief executive officer and the majority of directors (which must include an independent director) of the company have the skill, knowledge and experience that are necessary for the successful administration of provident fund schemes.

A company incorporated outside Hong Kong may apply for approval as trustee if it fulfils the aforementioned requirements and if additionally:

- The objectives of the company contain some of, but not more than, those specified in the Trustee Ordinance;
- The applicant is incorporated or registered in a jurisdiction where laws are in force relating to corporations and trusts that are comparable to those of Hong Kong;
- The company is adequately regulated under those laws and is adequately supervised by an authority established in that jurisdiction that is acceptable to the MPFA;
- This authority certifies to the MPFA that the applicant is of good standing and has not contravened any requirement under the laws relating to corporations or trusts in force in that jurisdiction;
- The applicant has experience in conducting business internationally and has standing as an international financial institution that is acceptable to the MPFA;
- The applicant designates one of its controllers to be its Hong Kong chief executive officer and satisfies the MPFA that the Hong Kong chief executive officer has the skill, knowledge and experience that are necessary for the successful administration of schemes;
- The applicant enters into a written undertaking with the MPFA that the applicant, and all transactions relating to the administration of provident fund schemes by the applicant in Hong Kong and all disputes arising out of those transactions, will be governed by the law of Hong Kong.

An independent director must:

- Not be an employee or partner of the trust company, or of an associate of the trust company;
- Not be a director of an associate of the trust company;
- Not hold any shares of the trust company or of any associate of the trust company;
- Satisfy the MPFA that no past or present association (financial or otherwise) that could affect impartiality exists with:
  - the trust company (otherwise than as a director or professional advisor);
  - any controller of the trust company;
  - any associate of the trust company or of the trust company's controller;
- Not be a controller (otherwise than by virtue of being a director) or close relative or a partner or employee of the trust company or of any associate of the trust company;
- Not be an auditor or actuary of any provident fund scheme administered by the trust company.

A registered trust company incorporated in Hong Kong and a company incorporated outside Hong Kong must accompany the application with a written report prepared by an auditor appointed by the applicant that must state whether or not the applicant complies with the prescribed capital requirements of:

- Having a paid-up share capital of at least HKD 150 million;
- Owning net assets of at least the same amount;
- Owning assets held in Hong Kong to the value of

at least HKD 15 million.

Even if not explicitly written, the governing rules by law include the provision that the trustee(s) will:

- Comply with the governing rules;
- Exercise the care, skill, diligence and prudence to be reasonably expected of a person who is administering provident fund schemes;
- Act in the interests of scheme members and not in the trustee(s)' interests;
- Ensure that the funds of the scheme are invested in different investments so as to minimize the risk of losses of those funds.

The MPFA may require an applicant to provide such additional information and documents as are reasonably necessary to enable it to determine the application.

All subsequent amendments to the governing rules are subject to the approval by the MPFA.

The trustee(s) must:

- Manage the contribution and benefit administration or delegate these tasks to other service providers;
- Appoint a custodian to hold the scheme assets (an approved trustee may be custodian under specific circumstances);
- Establish a separate individual account for each scheme member;
- Ensure that each member's account is kept in such a manner that the market value of the accrued benefits of a member can be ascertained at least once a month;
- Appoint an asset manager to manage the investment of scheme assets.

All schemes must be registered with the MPFA. As a condition of registering a scheme, the MPFA may require the applicant to enter into an undertaking not to refuse an application for membership of the scheme made by, or on behalf of, any person who meets the respective criteria for that particular type of scheme (i.e. employer-sponsored, industry or master trust schemes). All applications for registration of a scheme must be submitted by the trustee(s) of the scheme and must:

- Specify particulars of the scheme;
- Be accompanied by a copy of the proposed governing rules;
- Include a statement of the investment policy.

Employer-sponsored schemes: An application for the registration of a provident fund scheme as an employer-sponsored scheme may be made to the MPFA by:

- An approved trustee that is a company; or
- Two or more individuals who are approved trustees of which at least one must be an independent trustee; or
- Such a company and one or more such individuals.

An independent trustee of a scheme must:

- Not be controller, close relative, employee or partner of the sponsoring employer, or of an associate of the employer;
- Not hold (where the sponsoring employer is a company) any shares of the sponsoring employer or of any of its associates;
- Satisfy the MPFA that they have the skill, knowledge, experience and qualifications that are, in the opinion of the MPFA, necessary for a person to administer provident fund schemes;
- Satisfy the MPFA that no past or present associations (financial or otherwise) exist with the sponsoring employer, a controller of this employer or an associate of the employer or its controller that could affect the impartiality of independent judgment;
- Not be auditors or actuaries of the provident fund scheme.

The independent trustee must, as far as reasonably practicable, be present at all meetings of the trustees. Any decision taken at a meeting at which the independent trustee is absent does not have effect until the independent trustee confirms it in writing.

Industry schemes: Upon invitation by the MPFA, approved company trustees may lodge an application to register a provident fund scheme as an industry scheme.

Master trust schemes: An application for the registration of a provident fund scheme as a master trust scheme may be done by an approved company

trustee.

Coverage

Covered population

All schemes: Public- and private-sector employees and self-employed persons aged between 18 and 65 must become members of a provident fund scheme. This obligation applies to full-time and part-time workers holding a contract of 60 days or more.

Employees in the catering or construction industry who are employed for less than 60 days or on a daily basis (casual employees) must also be covered.

Employers must enrol all employees in a mandatory provident fund scheme within 60 days of the employment commencing (10 days in the case of casual employees). Employers having two or more eligible employees may enrol different employees in different mandatory provident fund schemes.

Self-employed persons must enrol themselves in a scheme within 60 days of becoming self-employed.

The following categories of persons are exempt from the obligation to become a member of a mandatory provident fund scheme:

- Domestic employees;
- Self-employed hawkers;
- People covered by statutory pension or provident fund schemes, for example, civil servants or teachers;
- Members of occupational retirement schemes which are granted MPFA exemption certificates (see profile on voluntary plans in Hong Kong);
- People from overseas who enter Hong Kong for employment for 13 months or less, or who are covered by overseas retirement schemes.

Enforcement of affiliation

All schemes: The law provides that the Mandatory Provident Fund Authority (MPFA) may establish, or arrange for the establishment of, a provident fund scheme, to be known as the Residual Provident Fund Scheme, and appoint an approved company trustee to administer the scheme. The residual scheme is a last resort scheme to provide membership for employees and self-employed persons if:

- Employers declare in writing to the MPFA that they have not, through their own efforts or otherwise, been able to comply with the requirement to enrol their employees in a mandatory provident fund scheme;
- Self-employed persons declare in writing to the MPFA that they have not, through their own efforts or otherwise, been able to become a member of a mandatory provident fund scheme.

The Residual Provident Fund Scheme has not yet been established as the MFPA has not received any complaint from employers or self-employed persons about having difficulty in finding a mandatory provident fund scheme to join.

The MPFA may, as a condition of registering a scheme, require the applicant for registration to enter into an undertaking not to refuse an application for membership of the scheme made by employees or self-employed persons who are eligible to join this scheme.

A person authorized by the MPFA may, for the purpose of ensuring compliance with the coverage requirements of the Mandatory Provident Fund Schemes Ordinance do all or any of the following:

- Enter, inspect and examine, by day or night, any premises in which the person knows or reasonably believes relevant employees or self-employed persons are employed or carrying on business;
- Require any person found in those premises or place to produce any record required to be kept and inspect, examine or copy the same;
- Make such examinations and inquiry as may be necessary to ascertain whether the legal requirements applicable to employers, relevant employees and self-employed persons are being complied with, and seize anything which may appear to the authorized person to be, or contain evidence of, an offence against these requirements;
- Exercise any other powers, which may be conferred on the authorized person by the regulations.

Financing / Investment

Sources of funds

Member contributions

All schemes: Employees contribute 5% of salary up to the limit of HKD 20,000 per month.

Casual employees contribute a fixed amount according to a contribution table. The maximum contribution is HKD 30 a day for casual employees with earnings of more than HKD 650 a day who are paid once a day or more frequently than once a day and HKD 32.50 for casual employees with earnings of more than HDK 650 a day who are paid less frequently than once a day.

Employees earning less than HKD 5,000 a month or casual employees earning less than HKD 160 a day are not required to contribute, but may elect to do so.

Self-employed persons contribute 5% of their relevant income up to the limit of HKD 20,000 per month. They are not required to contribute if their income is less than HKD 5,000 a month or HKD 60,000 a year. Self-employed persons who make a loss may lodge with the trustee a statement showing the amount of the loss, and request to discontinue payment of mandatory contributions until the relevant income exceeds the minimum level stated above.

Self-employed persons do not need to show proof of their income if they elect to pay the maximum level of contribution of HKD 1,000 per month.

Employees and self-employed persons may make voluntary contributions to the mandatory provident fund scheme.

Employer contributions

All schemes: Employers contribute 5% of the employee's salary up to the limit of HKD 20,000 per month.

Employers contribute a fixed amount for casual employees according to a contribution table. The contribution for employees who are paid once a day or more frequently than once a day is HKD 7.50 for employees with earnings of less than HKD 160 a day and HKD 30 for employees earning more than HKD 650 a day. The employer contribution for casual employees who are paid less frequently than once a day is 5% of income with a maximum of HKD 32.5 a day.

Employers are required to contribute for employees earning less than HKD 5,000 a month and casual employees earning less than HKD 160 a day.

Employers may make voluntary contributions to the mandatory provident fund scheme.

Other sources of funds

All schemes: If a mandatory contribution is not paid in time and is thus in arrears, the person who is liable to pay the contributions is also liable to pay to the Mandatory Provident Fund Schemes Authority (MPFA) a contribution surcharge (amount determined by multiplying the arrears by a prescribed percentage rate). The contribution surcharge is credited to the member's individual account.

Methods of Financing

All schemes: Funded in individual accounts.

Asset Management

All schemes: A mandatory provident fund scheme may consist of a single constituent fund, or of two or more constituent funds. Each constituent fund must be approved by the Mandatory Provident Fund Authority (MPFA). If the scheme comprises two or more constituent funds, each of the funds must have different investment policies among which the members of the scheme may choose to invest their accumulated capital.

The trustee(s) must prepare and maintain a statement of investment policy including sufficient information to enable scheme members to ascertain in relation to each constituent fund:

- The investment objectives of the fund;
- The policy as to the kinds of securities and other assets in which the funds may be invested;
- The policy as to the balance between different kinds of securities and other assets of the fund;

- The policy regarding the acquisition, holding, disposal of financial futures and option contracts for the purposes of the fund;
- The risks inherent in implementing these policies and returns expected.

The trustee(s) must appoint an asset manager to manage the investment of the scheme assets. The asset manager may delegate its asset management function to a qualified asset manager.

Asset managers must:

- Be a company incorporated in Hong Kong;
- Have a paid-up share capital and net assets of not less than HKD 10 million;
- Be a corporation licensed to carry on, or an authorized financial institution registered for carrying on, a business in asset management under the Securities and Futures Ordinance.

The asset manager, or its delegate, must be independent of the scheme trustee(s) and of the custodian, or its delegate, of scheme assets. This requirement is only fulfilled if:

- The asset manager, or its delegate, is not an associate of the trustee or custodian, or its delegate;
- No person is a controller of both the asset manager and the trustee or custodian or any of their delegates/associates;
- The asset manager, or its delegate, acts independently of the trustee(s) and custodian, or its delegate.

If the asset management contract allows the asset manager to delegate its functions with respect to managing the investment of the funds, the actual delegation may only be done with the approval of the trustee(s).

Any provision in the asset management contract relating to the scheme that purports to exempt the asset manager from liability for negligence or fraud, or to limit that liability, is void.

Of total assets of any one constituent fund invested:

- A minimum of 30% must be held in Hong Kong Dollar investments;
- A maximum of 10% may be in securities and other permissible investments, excluding deposits, issued by any one person (rules for aggregating exposure of certain investments having values ascertainable by reference to other securities apply).

Assets may only be invested in permissible investments, which are:

- Debt securities issued by the Hong Kong Special Administrative Region Government (HKSAR) and the Exchange Fund (a fund used to affect the exchange value of the HKD and to maintain the stability and the integrity of the monetary and financial systems of Hong Kong);
- Debt securities issued by a company all the shares of which are owned beneficially by the HKSAR, or a government, the central or reserve bank of a country or territory or a multilateral agency with the highest possible credit rating determined by a credit rating agency approved by the MPFA;
- Debt securities listed on an approved stock exchange;
- Debt securities not listed on an approved stock exchange but satisfy a minimum credit rating set by the MPFA;
- Equities;
- Index-tracking collective investment schemes approved by the MPFA;
- Convertible debt securities;
- Warrants;
- Deposits with an authorized financial institution or eligible overseas bank;
- Futures contracts traded on an approved futures exchange;
- Option contracts traded on an approved futures exchange or stock exchange;
- Currency forward contracts;
- Securities listed on an approved stock exchange approved by the MPFA.

Of total assets of any one constituent fund invested:

- Not more than 10% may be in shares listed on a stock exchange that is not an approved stock exchange and securities of a kind approved by the MPFA other than shares listed on an approved stock exchange and in authorized unit trusts or

mutual funds of a type approved by the MPFA;
- Not more than 5% may be invested in warrants;
- Unless prior approval from the MPFA is obtained, not more than 25% may be in cash deposits with a single authorized financial institution or eligible overseas bank if the total market value of the constituent fund is less than HKD 8 million, and not more than 10% in any other case.

The funds of any one constituent fund may be used to acquire a financial futures contract or a financial options contract only for hedging purposes or if the acquisition does not result in the constituent fund becoming leveraged and if the exposure does not exceed 10% of the market value of the fund.

Assets must be kept by a custodian or its delegates.

Employer-sponsored schemes: Not more than 10% of the assets of each constituent fund may be invested in restricted securities legally defined as:

- Any security of, or issued by, a sponsoring employer or an associate of the employer;
- Any security that contains an option that, if exercised, would result in the conversion of the security to shares or other securities of, or issued by, a sponsoring employer or an associate of the employer;
- Any security that is an option that, if exercised, would result in the acquisition of shares or other securities of, or issued by, a sponsoring employer or an associate of the employer.

Benefit provisions

Preservation, portability, transferability

All schemes: Upon terminating employment before retirement, the trustee(s) must inform the members in writing of:

- The different options that the member has with respect to the transfer of the accumulated capital and the time within which the member may elect to exercise one of those options;
- The consequences of not electing to exercise one of those options within a specified time.

No fees may be charged, and no financial penalties may be imposed, for transferring accumulated capital from a mandatory provident fund scheme to another scheme or from one account to another account within the scheme, other than actual and reasonable expenses incurred by the trustee(s) as a result of redeeming funds.

Employer-sponsored schemes: Upon terminating employment before retirement, the employee must elect to have the accrued benefits transferred to:

- The scheme in which the new employer is participating; or
- A scheme to which the employee is eligible to join.

Industry and master trust schemes: Upon terminating employment before retirement, employees may preserve the accumulated capital in a preserved account in the existing scheme or elect to have the capital transferred to:

- A master trust scheme; or
- The scheme in which the new employer is participating.

The capital in a preserved account may be transferred at any time to another mandatory provident fund scheme to which the member is eligible to belong if the member gives notice in writing to the trustees concerned.

A self-employed person may, at any time, elect to have the accumulated capital transferred to:

- A master trust scheme of their choice; or
- An industry scheme which the self-employed person is eligible to join.

If a self-employed person subsequently becomes employed, the person may elect to have the accumulated capital transferred to the mandatory provident fund scheme in which the employer is participating.

Retirement Benefits

Benefit qualifying conditions

All schemes: Retirement age is 65 for both men and women.

Early retirement is possible from age 60 for both

men and women if members submit to the trustee a statutory declaration certifying that they have permanently ceased their employment or self-employment.

Withdrawal of funds before retirement

All schemes: A member of a mandatory provident fund scheme who has not reached the early retirement age may only receive benefits if the member has, or is about to, permanently departed from Hong Kong, or if all of the following requirements are met:

- The member does not intend to be employed or self-employed within the foreseeable future;
- The member's accumulated capital does not exceed HKD 5,000;
- No mandatory contributions were paid or required to be paid during the 12 months preceding the claim for withdrawal of benefits;
- The member does not have any accumulated capital in any other mandatory provident fund scheme.

Benefit structure / formula

All schemes: Defined contribution.

Benefits are paid as a lump sum at retirement. Retirees are not required to buy an annuity.

Benefit adjustment

All schemes: Not applicable as benefits are paid as a lump sum at retirement.

Survivors

Benefit qualifying conditions

All schemes: If a member of a mandatory provident fund scheme dies before retirement, the personal representative of the member may lodge a claim for benefits with the trustee(s) of the scheme. This claim must be accompanied by sufficient evidence of status of the personal representative.

Benefit structure

All schemes: The personal representative receives the member's accumulated capital as a lump sum.

Disability

Benefit qualifying conditions

All schemes: A member may claim disability benefits on the ground of total incapacity for work. In this case the member must:

- Provide the trustee(s) with a medical certificate issued by a registered medical practitioner certifying that the member is permanently unfit to perform the kind of work specified in the certificate for a reason so specified;
- Provide the trustee(s) with a letter from the last employer (in the case of employees) stating the employment contract has been or will be terminated; and
- Satisfy the trustee(s) that was engaged in the kind of work specified in the medical certificate immediately before becoming totally incapacitated.

Benefit structure

All schemes: The disability benefit equals the member's accumulated capital and is paid as a lump sum.

Protection of Rights

Protection of Assets

All schemes: Scheme assets must be held by a custodian completely separate from the assets of the sponsoring employers, trustee(s) and service providers.

Financial and Technical Requirements / Reporting

All schemes: For each mandatory provident fund scheme, except in the case of employer-sponsored schemes with no more than 1000 members, internal control objectives and measures must be established. The internal control objectives must ensure that the:

- Scheme assets are safeguarded in the interest of the scheme members;
- Investment restrictions are complied with;
- Scheme assets are kept separate from those of the participating employers, the trustee(s) of the

scheme and the service providers.

Internal control measures must be established including:

- Monitoring investments, scheme assets and liabilities;
- Ensuring the accuracy of statements, returns and reports required to be lodged with the Mandatory Provident Fund Schemes Authority (MPFA).

The trustee(s) must lodge yearly with the MPFA a report on the control objectives of the scheme and the major internal control measures taken.

The trustee(s) must yearly prepare financial statements consisting of a balance sheet specifying the assets and liabilities of the scheme and a statement of accounts specifying:

- The fees for administrative expenses deducted by the trustee(s) from the member's accounts;
- The contributions and contribution surcharge paid and payable by, and recovered from, scheme members and employers;
- The total returns derived from investing the funds of the scheme (taking into account any capital appreciation and depreciation);
- The total amount of accumulated capital that was paid, and of accumulated capital that became payable but was not paid to, or in respect of, scheme members;
- The amount of accumulated capital transferred to, and received by, the scheme.

The financial statements must be audited by a qualified auditor appointed to the scheme.

The trustee(s) must ensure that a yearly investment report is prepared which must be adequate to provide scheme members with a proper understanding of the investments made, the net return derived from those investments and the appreciation and depreciation of the value of scheme assets attributable to these investments. The investment report must include the following information:

- An analysis of the investments held by the trustee(s) in respect of the scheme and particulars of the income derived from these investments;
- A commentary by the trustee(s) on the analysis;
- Particulars of the investment policy followed by the trustee(s) and any change in the statement of investment policy that will materially affect the risk attached to the investments of the scheme;
- The amount of net income derived from the investment of scheme assets;
- The amount by which the value of the scheme assets has increased or decreased.

The trustee(s) must prepare a yearly scheme report that includes the following information:

- A commentary as to the financial development of the scheme consistent with the financial statements;
- Particulars of any changes that have been made to the governing rules of the scheme since the end of the immediately preceding financial period or, if there was no such period, since the scheme became registered;
- Particulars of the auditor of the financial statements and of any other service provider, and information on changes to these particulars;
- Such other information as is, in the trustee(s)' opinion, necessary to provide the scheme members with a proper understanding of the scheme and its operation;
- Specifications how, and from whom, scheme members can obtain further information about the scheme and its operation.

The trustee(s) must publish a consolidated report that must be submitted to the MPFA and that may be requested by any scheme member. The report must consist of:

- The financial statements;
- The auditor's report;
- The scheme report;
- The investment report.

A trust company must, within 6 months of the end of each financial period of the company, lodge with the MPFA a report stating whether or not the prescribed capital requirements were complied with throughout the previous financial year. The report must be accompanied by a report of the auditor of the company.

Whistleblowing

All schemes: Auditors must report to the Mandatory Provident Fund Schemes Authority (MPFA) without delay if they:

- Become aware that the trustee(s) fails to keep proper accounting records or separate accounts for each scheme member;
- Identify any transaction that, in their opinion is, or has resulted in, a misappropriation of the scheme assets;
- Identify any payment from the funds of the schemes that, in their opinion, is materially prejudicial to the interests of scheme members;
- Become aware that the scheme assets have been mixed with the funds of the trustee(s) or the assets of any other person;
- Identify any matter that may point to forbidden investment practices.

Standards for service providers

All schemes: A qualified auditor of a mandatory provident fund scheme must be:

- An accounting practice unit; or
- A person recognized by the Mandatory Provident Fund Schemes Authority (MPFA) as having the qualification in accounting equivalent to that of a certified public accountant as defined in the Professional Accountants Ordinance.

Fees

All schemes: No legal rules.

No fees may be charged, and no financial penalties may be imposed, for transferring accumulated capital from a mandatory provident fund scheme to another scheme or from one account to another account within the scheme, other than actual and reasonable expenses incurred by the trustee(s) as a result of redeeming funds.

Winding up / Merger and acquisition

All schemes: The voluntary winding up of an employer-sponsored scheme is subject to the approval of the Mandatory Provident Fund Schemes Authority (MPFA).

If an employer-sponsored scheme is wound up, a liquidator must usually be appointed by the MPFA in which case the assets vest in the liquidator and the responsibilities of the trustee(s) cease.

A person may be appointed as liquidator only if the person:

- Has consented in writing to the appointment;
- Is a certified public accountant as defined in the Professional Accountants Ordinance, or is an approved trustee;
- Is not an undischarged bankrupt.

The scheme assets are applied in the following order of priority:

- General creditors of the trustee(s) of the scheme in relation to the operation of the scheme;
- Any remaining scheme members whose accumulated capital have not previously been transferred to another mandatory provident fund scheme or paid in accordance with legal rules, the transfer of the capital in accordance with arrangements approved by the MPFA.

In all other cases, a scheme can only be wound up through a Court decision after application by the MPFA.

Bankruptcy: Insolvency Insurance / Compensation Fund

All schemes: The trustee(s) must have adequate insurance in respect of a mandatory provident fund scheme that will indemnify scheme members against losses that the members would incur as a result of the maladministration of the scheme by a trustee or by any service provider appointed to the scheme.

The trustee(s) complies with this requirement if there are one or more insurance policies that:

- Are obtained from one or more eligible insurers (i.e. an insurance company specified under the Insurance Companies Ordinance or of which the Mandatory Provident Fund Schemes Authority (MPFA) is satisfied that it is able to meet its liabilities);
- Cover the total managed assets of the trustee(s) and do not deal with any matter other than the

assets of the scheme concerned;
- Provide an insurance cover as legally specified (depending on the size of the scheme);
- Provide for the indemnity of the following risks of loss of scheme assets that are attributable to the administration of the scheme by the trustee(s) or any service provider:
— Fraudulent, wrongful or negligent acts done or omitted to be done by the trustee(s) of the scheme, a service provider appointed or engaged for the purposes of that scheme or an employee or agent of the trustee(s) or of the service provider;
— Loss while kept on the premises of the trustee(s) or service providers or at a central securities depository;
— Loss while being transported in the custody of the trustee(s) or service providers, or of a central securities depository;
— Loss arising from relying on a cheque or other negotiable instrument that is forged, fraudulently altered, lost or stolen;
— Loss arising from the fraudulent use of a computer or from fraudulent instructions given for the transfer of those assets;
— Loss arising from indemnifying the trustee(s) in accordance with the scheme rules as permitted by law.
- Specify a deductible amount that must not exceed a specified maximum (see below);
- Are governed by the law of Hong Kong.

If the insurance policy stipulates that the insurer is liable for only the part of a claim that exceeds a specified amount (known as the deductible amount), this amount must not exceed:

- HKD 100,000 if the market value of the trustee(s)' total assets under management is not more than HKD 1 million;
- The lower of HKD 500,000 and 10% of the market value of the scheme assets if the trustee(s)' total assets under management exceed HKD 1 million.

The MPFA must establish a compensation fund for the purpose of compensating members of mandatory provident fund schemes and other persons who have beneficial interests in those schemes. Schemes must contribute 0.03% of the scheme assets to the compensation fund. The Financial Secretary may provide grants or loans out of the general government revenue to the compensation fund should there be insufficient funds available.

A member may lodge with the MPFA a claim for compensation from the compensation fund on the grounds that:

- The person has suffered a loss of accumulated capital in the scheme; and
- The loss was attributable to misfeasance or illegal conduct committed by a person concerned with the administration of the scheme.

Any person whose act or omission causes any loss of accrued benefits of scheme members, for which the compensation fund must pay, is liable to repay such sum plus interest to the compensation fund.

Disclosure of information / Individual action

All schemes: The trustees must provide the scheme members with a yearly benefit statement setting out the member's accumulated capital.

Members may request a copy of the consolidated report prepared by the trustee(s) (see section Financial and technical requirements / reporting).

Other measures

All schemes: A provision of the governing rules of a mandatory provident fund scheme is void if it exempts or limits the trustee(s) of the scheme from liability for breach of trust for:

- Failure to act honestly;
- An intentional or reckless failure to exercise, as regards a matter concerning the scheme, the degree of care and diligence that is to be reasonably expected of a trustee who is exercising functions in relation to a trust.

If an individual who is a trustee becomes aware of:

- Any matter that gives rise or is likely to give rise to a conflict of interest between the person's duties as a trustee of the scheme and either their other duties as a trustee or their personal interests,

the person must immediately disclose the matter in writing to the other trustee(s) of the scheme. Such a person must not be present during any deliberation with respect to the matter and must not take part in any decisions;
- The occurrence of an event of such significant nature that it may endanger the accumulated capital of the scheme members, the trustee(s) must, not later than the third working day after becoming aware of the event, give written notice to the MPFA.

Tax Treatment

Taxation of member contributions

All schemes: Tax-deductible up to a maximum of HKD 12,000 a year.

Taxation of employer contributions

All schemes: Tax-deductible up to the limit of 15% of the employee's salary.

Taxation of investment income

All schemes: Tax-exempt.

Taxation of benefits

All schemes: Tax-exempt.

Regulatory and Supervisory Authorities

Mandatory Provident Fund Schemes Authority (MPFA): Supervises mandatory provident fund schemes and has the main functions to:

- Ensure compliance with legal requirements;
- Register provident fund schemes;
- Approve qualified persons to be trustees of mandatory provident fund schemes;
- Ensure that schemes are administered by approved trustees in a prudent manner.

The MPFA may notify a trustee that it intends to investigate certain matters related to the scheme and appoint one or more inspectors to conduct an investigation.

The MPFA may authorize a person to enter, by day or night, premises at which the person reasonably believes that the affairs of a mandatory provident fund scheme are being conducted or any document relating to the scheme is being kept.

The authorized person may:

- Inspect the premises and examine any record found that relates to a registered scheme;
- Take photographs of the premises or of anything found that relates to a mandatory provident fund scheme;
- Require the occupier of the premises or an employee of the occupier to provide the authorized person with such assistance and facilities as necessary;
- Require any person on the premises to produce for inspection records under the control of the person relating to the scheme;
- Make copies of all records or statements.

An authorized person may enter premises without giving prior notice and without the consent of the occupier if entry is required urgently and/or if giving notice or obtaining consent would defeat the purpose for which the investigation is conducted.

The MPFA may require the trustee(s) of a scheme to provide all information as specified.

If at any time the MPFA believes that circumstances exist or existed that may prejudice the accrued benefits of members it may require the trustee(s) of a scheme to:

- Arrange for an auditor (that must be approved by the MPFA) to investigate whether or not any such circumstances exist or existed;
- Provide the MPFA with a copy of the auditor's report.

The MPFA may suspend the trustee(s)' administration of the scheme if it reasonably believes that:

- The trustee(s)' conduct with respect to the scheme is having, has had or could have an adverse effect on the financial soundness of the scheme or the interests of the scheme members;

- The trustee(s) are engaging, or have engaged, in a forbidden investment practice.

After the suspension, the MPFA must hold an inquiry to determine whether or not the trustee(s)' administration should be terminated. The trustee(s)' administration is terminated if the inquiry shows that the MPFA's beliefs are confirmed. The MPFA must in this case take all reasonable steps to appoint another approved trustee.

The Mandatory Provident Fund Schemes Advisory Committee has been established to give advice to the MPFA and consists of an executive director and between 9 and 11 other members of which one or more persons:

- Have knowledge of investments and financial management;
- Have knowledge of the conduct of retirement benefit schemes;
- Represent the interests of participating employers and an equal number represent the interests of employees.

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Exchange rate: USD 1.00
equals 123 tenge (KZT)

Regulatory Framework

2003: Regulation on accounting standards; requires financial institutions including pension funds to use international accounting standards.

2002: Law concerning pension security in the Republic of Kazakhstan (amendment); abolishes the special role of the open pension fund established by the state, stipulates that covered persons who do not choose a fund are not automatically affiliated to the state fund anymore and introduces the right of pension funds to manage assets in-house.

1997: Law concerning pension security in the Republic of Kazakhstan; governs the establishment and operation of pension funds and regulates coverage, contributions and asset management.

Types of Schemes

All covered persons must become a member of the mandatory private pension scheme through joining a pension fund.

The mandatory private pension scheme is defined contribution and contributions are accumulated in individual accounts.

Members and employers may make voluntary contributions. In the case of employers of employees in certain occupations with harmful work conditions, the employer may make tax-favoured voluntary contributions (known as professional contributions) up to 10% of salary.

Members may choose to join any pension fund without influence of their employer.

Open pension funds: Eligible persons may become members of an open pension fund that must accept all applications for membership from covered persons.

Closed pension funds: Employers, singly or as a group, may establish closed pension funds the membership of which is restricted to the employees of the founding employer(s). Closed pension funds must accept all applications for membership from employees of the employer(s) that established the fund.

Employees eligible for membership of a closed pension fund may choose to join any open pension fund instead of the closed fund.

Institutional Framework

Open pension funds: Open pension funds must be established as joint-stock companies by individuals residing in Kazakhstan or legal entities with headquarters in Kazakhstan.

Open pension funds must have a minimum capital of KZT 250 million if they contract the asset management to an asset manager and KZT 500 million if they manage their assets in-house.

Shareholders of open pension funds may be:

- Individuals residing in Kazakhstan;
- Legal entities with headquarters in Kazakhstan;
- The government of Kazakhstan;
- Foreign legal entities if they have a certain rating grade of an internationally recognised rating agency.

No individual or legal entity may directly or indirectly own and/or manage more than 10% of the voting shares of a fund during its foundation and operation except if permission has been granted by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN).

If the shareholders of a pension fund include foreign entities then at least one-third of governing board members of the fund must be citizens of Kazakhstan.

Amendments to the Law concerning pension security introduced in 2002 have abolished the special role of the open pension fund established by the state. This

fund still exists as a normal open pension fund and its privatization is envisaged for the future.

Closed pension funds: Closed pension funds must be established as joint-stock companies by employers, singly or as a group.

Closed pension funds must have a minimum capital of KZT 100 million if they contract the asset management to an asset manager and KZT 300 million if they manage assets in-house.

There are no legal requirements concerning member representation in the administration of closed pension funds.

All funds: Pension funds must obtain a license from the AFN. The following documents and information must be attached to the license application:

- Copy of the certificate of registration as a legal entity;
- Evidence of the required minimum capital;
- Business plan and organizational structure of the fund;
- Fund rules;
- Documents confirming the appointment of managerial staff approved by the AFN (see below).

In addition, each pension fund must disclose:

- Details of its founders;
- Procedures for defining the investment policy of the fund;
- Any other information requested by the AFN.

Pension funds must not carry out:

- Industrial activity;
- Sale and purchase of property, except sale and purchase and delivery in rent of property acquired for own needs, and trade of financial instruments as prescribed;
- Insurance activity;
- Transfer of pension assets under mortgage;
- Issuance of securities except shares.

The appointment of the following persons that are considered to constitute the managerial staff of a pension fund must be approved by the AFN:

- The head and members of the governing board;
- The chief accountant;
- The board of directors.

The persons belonging to the managerial staff of a pension fund must:

- Have passed a qualification test with the AFN;
- Have higher education;
- Not have any conviction that has not been cancelled;
- Not have been managers of a legal entity that has been declared bankrupt or subject to forced liquidation under their management.

Pension funds manage the benefit administration if the retiree opts for a pension from the fund (see section Retirement benefits). If an annuity is purchased, the benefit is paid by an insurance company.

The State Centre for Benefit Payments collects contributions and transfers them to the respective pension funds.

Coverage

Covered population

All funds: All private- and public-sector employees and self-employed persons must become members of the mandatory private pension scheme.

Enforcement of affiliation

All funds: Regulations concerning the affiliation of covered persons who do not comply with the requirement to choose a pension fund for membership are currently being drafted.

Open pension funds must accept all applications for membership from covered persons.

Closed pension funds must accept all applications for membership from eligible employees (see section Types of schemes).

Advertisement and selling of services by pension funds is controlled by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN). The complete text of advertisements must be

submitted to, and approved by, the AFN before publication.

Financing / Investment

Sources of funds

Member contributions

All funds: Employees contribute 10% of salary.

Certain state employees (e.g. military employees and employees of law-enforcement bodies) are not required to contribute.

The self-employed contribute 10% of income but at least 10% of the minimum salary.

The maximum salary/income considered for contributions is 75 times the minimum salary.

The minimum monthly salary is KZT 9,200 in 2006.

Employer contributions

All funds: Employers do not contribute.

The state contributes 20% of salary for certain state employees who are not required to contribute (e.g. military employees and employees of law-enforcement bodies).

Other sources of funds

All funds: The state covers the cost of the guaranteed minimum pension.

Methods of Financing

All funds: Funded in individual accounts.

Asset Management

All funds: Pension funds may either manage the assets in-house or appoint a pension asset management company licensed by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN).

Pension asset management companies must be established as joint-stock companies.

The definition of, and requirements for, managerial staff of pension funds (see section Institutional framework) also apply to the managerial staff of asset management companies.

Of total assets invested:

- A minimum of 15% must be in securities issued by the government of Kazakhstan;
- A maximum of 50% may be in securities listed under Category A of the Kazakhstan Stock Exchange and in securities issued by special purpose entities (i.e. bonds issued by subsidiaries of Kazakhstan banks established abroad);
- A maximum of 40% may be in foreign securities rated at least A- by internationally recognised rating agencies;
- A maximum of 40% may be in securities issued by international financial organizations;
- A maximum of 20% may be in bank deposits;
- A maximum of 15% may be in bonds issued by the Development Bank of Kazakhstan;
- A maximum of 5% may be in bonds issued by municipalities;
- A maximum of 5% may be in mortgage-backed bonds.

Pension funds must credit at least a minimum rate of return equal to the inflation rate to the members' individual accounts (i.e. the pension funds must guarantee the real value of the members' accumulated capital).

Fund assets must be kept by a custodian.

Benefit provisions

Preservation, portability, transferability

All funds: Covered persons are free to choose to join any open pension fund.

Employees eligible for membership of a closed pension fund may choose to join any open pension fund instead of the closed fund.

Members may switch funds at any time, but they are not allowed to switch more than twice during 1 year.

If employees are members of a closed pension fund

and cease employment with the employer, they must leave the closed fund and join another closed fund (if eligible) or an open fund.

Retirement Benefits

Benefit qualifying conditions

All funds: Retirement age is 63 for men and 58 for women.

Early retirement is allowed from age 55 for both men and women provided that the accumulated capital is sufficient to finance a benefit not lower than the minimum pension.

The state guarantees a minimum pension (known as old-age social allowance) for all retirees whose benefit is lower than the minimum pension.

Withdrawal of funds before retirement

All funds: Only permitted to members leaving Kazakhstan permanently.

Benefit structure / formula

All funds: Defined contribution.

If the accumulated capital is at least KZT 100,000, members may choose between:

- Having their accumulated capital converted into a life long pension calculated based on legally defined conversion charts and payable by the pension fund; and
- Transferring their accumulated capital to an insurance company in order to purchase a life annuity. This option is not available for members whose capital is not sufficient to purchase a life annuity of an amount at least equal to the minimum pension.

If the accumulated capital is less than KZT 100,000, the retiree may receive it as a lump sum.

Certain groups of members (e.g. military employees or women who gave birth to more than 5 children) must purchase an annuity from an insurance company.

The minimum monthly pension is KZT 6,700 in 2006. The state pays the difference between the retiree's benefit and the minimum pension.

Benefit adjustment

All funds: Benefits must be adjusted in line with the adjustment of the minimum pension that is defined in the state budget law every year.

Survivors

Benefit qualifying conditions

All funds: The deceased member's accumulated capital is inherited according to legal rules.

Benefit structure

All funds: A lump sum of 15 times the monthly calculation index is paid out of the accumulated capital to the persons who financed the deceased member's burial.

The monthly calculation index is KZT 1,030 in 2006.

The remainder is inherited by legal heirs.

Disability

Benefit qualifying conditions

All funds: Disability benefits are paid to members assessed as fully disabled.

Benefit structure

All funds: Fully disabled members receive their accumulated capital as a lump sum.

Protection of Rights

Protection of Assets

All funds: Pension funds are established as joint-stock companies and must keep the assets accumulated in individual accounts separate from their own assets and the assets of their founders.

Fund assets must be kept by a custodian.

Financial and Technical Requirements / Reporting

All funds: Pension funds must account for, and report separately on, assets accumulated in the members' individual accounts and their own assets.

Pension funds must submit monthly, quarterly and yearly financial reports to the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN). The yearly financial reports must be audited by an independent auditor whose report must be submitted together with the reports.

Financial reports must consist of:

- The balance sheet;
- A report on the cash flow;
- A report on the flow of equity;
- Income statement;
- A report on net assets and changes thereof;
- An investment report.

Pension funds that do not achieve the prescribed minimum rate of return (see section Asset management) must make up any shortfall from their own assets. The founders of closed pension funds are also liable for shortfalls.

If an asset management company manages the assets, the company must make up the remaining deficit from its own capital. If any of these companies are able to cover the shortfall, the government covers any remaining deficit in the case of closed pension funds.

Whistleblowing

All funds: Custodians must not execute any order that violates legal requirements and must immediately inform the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN) of such an event.

Standards for service providers

All funds: Custodians must be commercial banks licensed by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN) and be independent of the pension fund for which they perform custodial services.

Auditors must be licensed by the Ministry of Finance and be independent of the pension fund for which they perform auditing services.

Fees

All funds: The state defines upper limits on the fees that pension funds may charge. Annual fees must not exceed:

- 0.5% of contributions received; and
- 15% of investment income.

Winding up / Merger and acquisition

All funds: Pension funds may be wound up on a voluntary basis after a decision by the general meeting of shareholders and obtaining approval by the Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN), or by a court decision upon application by the AFN (see section Regulatory and supervisory authorities).

If a pension fund is wound up, a liquidation commission must be established of which one member must be a representative of the AFN. Members and retirees receiving pension benefits from the fund must choose another pension fund to which their accumulated capital must be transferred.

The creditors of pension funds that are wound up are satisfied only after the accumulated capital of members and retirees has been transferred to other pension funds of their choice.

Any transformation (e.g. merger, acquisition, division) must be based on a decision of the general meeting of shareholders and approved by the AFN. The approval must not be granted if the transformation would:

- Violate the interests of members or retirees;
- Create market concentration violating antimonopoly legislation.

A new license must be obtained after a pension fund transformation.

Bankruptcy: Insolvency Insurance / Compensation Fund

All funds: Pension funds must insure the accumulated assets with an insurance company. Whether member's assets are to be fully or partially insured depends on member's choice.

In case of insolvency of an insurance company that provides annuities, annuitants have priority in the distribution of the assets of the insurance company. A government guarantee operates to cover any shortfalls.

Disclosure of information / Individual action

All funds: Pension funds must provide members with information on their contributions and accumulated capital at least once a year.

Pension funds must publish annually certain legally prescribed financial information in the mass media.

Other measures

All funds: None.

Tax Treatment

Taxation of member contributions

All funds: Tax-exempt.

Taxation of employer contributions

All funds: Employers do not contribute.

Taxation of investment income

All funds: Tax-exempt.

Taxation of benefits

All funds: Taxed.

Regulatory and Supervisory Authorities

Agency of the Republic of Kazakhstan on Regulation and Supervision of Financial Market and Financial Organizations (AFN): Licenses and supervises pension funds, asset management companies and custodians.

If the AFN detects a violation of legal requirements by a pension fund it may:

- Issue a written instruction directing the pension fund to cease the violation;
- Present the issue to the general meeting of shareholders and propose the dismissal of the pension fund's managerial staff to the shareholders;
- Impose penalties;
- Suspend and, if necessary, withdraw the license of the fund.

The AFN may suspend the license of a pension fund in case of:

- Systematic (i.e. 3 or more times during 12 consecutive months) nonfulfilment or improper fulfilment of the pension fund's obligations arising from the contracts with its members;
- Systematic (i.e. 3 or more times during 12 consecutive months) violation of rules issued by the AFN;
- Violation of legal requirements or nonfulfilment of written instructions of the AFN;
- Nonsubmission, or submission of manipulated, financial reports.

The suspension of the license must be published in the mass media and results in the prohibition to accept new members.

If a pension fund does not rectify the reasons for the suspension of the license within 6 months, the AFN may withdraw the license and apply to a court for the pension fund to be wound up.

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Glossary

Term	Definition
ABSOLUTE RATE OF RETURN GUARANTEE	A legally prescribed minimum rate of return guarantee determined without reference to actual rates of return achieved by pension plan asset managers.
ACCRUAL RATE	The fraction of salary that a defined benefit plan member earns for each service year.
ACCRUED BENEFITS	The accumulated benefit rights of a defined benefit plan member.
ACCUMULATED BENEFIT OBLIGATION	The actuarial present value of all benefits, including benefits in payment, vested and nonvested accrued benefits based on current salaries and employee service rendered to a particular date.
ACCUMULATED CAPITAL	The value of assets accumulated in a pension fund (most usually of a defined contribution plan member).
ACTIVE MEMBER	A pension plan member who is making contributions and/or on behalf of whom contributions are made.
ACTUARIAL INCREASE	The amount of benefit increase - calculated based on actuarial assumptions - in case of deferred retirement.
ACTUARIAL LIABILITY	The amount - calculated based on actuarial assumptions - that represents the present value of the accrued benefits in a pension plan.
ACTUARIAL REDUCTION	The amount of benefit decrease - calculated based on actuarial assumptions - in case of early retirement.
ACTUARIAL REPORT	The report prepared by an actuary following the actuarial valuation of a pension plan that describes its financial situation.
ACTUARIAL VALUATION	The evaluation undertaken by an actuary to determine the financial situation of a pension plan based on recognized actuarial and accounting methods.
ACTUARY	Specialist who uses mathematical and statistical techniques to assess and manage the financial impact of risks relating to insurance, pensions and financial institutions. Specifically with regard to pensions, the person or entity, whose responsibility, as a minimum, is to evaluate present and future pension liabilities in order to determine the financial solvency of the pension plan, following recognised actuarial and accounting methods.

ADDITIONAL VOLUNTARY CONTRIBUTIONS	The contributions made to a pension plan exceeding the regular contributions prescribed by law or in the plan rules.
ADMINISTRATIVE FEE	A sum of money charged to a plan member by institutions involved in the administration of pension plans.
ANNUAL REPORT	A report prepared each year by an institution that informs of its situation.
ANNUITY	A financial services product that is purchased by means of a single premium or periodic payments to provide a regular income for a specified number of years or for a remaining lifetime.
ANTIDISCRIMINATION RULES	The rules prohibiting discrimination in coverage and benefits under pension plans (e.g. discrimination based on age, working hours or gender).
ASSET ALLOCATION	The spread of funds among different investment forms.
ASSET MANAGEMENT	The process of placing, in accordance with fiduciary responsibilities, available capital in appropriate financial products and nonfinancial investment vehicles. More generally, the strategic management of institutional financial and nonfinancial assets.
ASSET MANAGER	The individual(s) or entity(ies) endowed with the responsibility to manage and invest assets.
AUDITOR	A qualified person or entity endowed with the task to review the compliance of bookkeeping, accounting procedures and financial statements of institutions with legal requirements and best practice standards.
BENEFICIARY	A person eligible to receive benefits under a pension plan.
BENEFIT	A payment taking the form of either a pension, annuity or lump sum that is made to a beneficiary in the cases of retirement or disability, and to eligible survivors after the member's death.
BENEFIT ADJUSTMENT	A periodic modification of benefits to maintain their value in relation to changes in wages and/or prices.
BENEFIT ADMINISTRATION	The procedure of calculating and paying benefits in line with plan rules and service or contribution record.
BENEFIT STATEMENT	A statement of the benefits accrued or capital accumulated by a plan member at the time the statement is issued.
BOOK RESERVE	A method of internal accounting used by some sponsoring employers to finance pension promises.
CAPITAL ADEQUACY REQUIREMENT	A minimum standard for the own capital of an institution.

CLOSED PENSION FUND	A fund implementing a pension plan the membership of which is restricted to a certain defined category of persons (e.g. the employees of the sponsoring employer).
CLOSED PENSION PLAN	A pension plan the membership of which is restricted to a certain defined category of persons (e.g. the employees of the sponsoring employer).
COMPLEMENTARY PENSION PLAN	A mandatory or voluntary pension plan established to improve the coverage provided by a statutory basic scheme.
CONTRACTING-OUT	The partial or total substitution of the benefits provided by a statutory social security scheme through the establishment of, and participation in, an occupational or personal pension plan in exchange for a rebate on contributions to the social security scheme.
CONTRIBUTION	A payment made to a pension plan by a plan sponsor or member for the purpose of accruing benefits or accumulating capital.
CONTRIBUTION ADMINISTRATION	The procedure of collecting and registering contributions in line with plan rules.
CONTRIBUTION HOLIDAY	A period during which employer contributions to a pension plan are put on hold, the most common reason for this being a situation of overfunding.
CONTRIBUTION RATE	The percentage rate applied to the contributory salary in order to calculate the contribution.
CONTRIBUTORY PENSION PLAN	A pension plan under which members are required to contribute in order to receive benefits.
CONTRIBUTORY SALARY	The amount of salary (sometimes restricted by lower and/or upper limits) to which the contribution rate is applied in order to calculate the contribution.
CORPORATE TRUSTEE	A company that acts as a trustee.
COUNTERPARTY	The opposite party in a financial transaction (e.g. any party transacting with a central bank).
COVERED POPULATION	The individuals eligible or required to become members of a pension plan.
CUSTODIAN	The entity responsible, as a minimum, for holding assets and for ensuring their safekeeping.
DEFERRED MEMBER	A pension plan member who is no longer making contributions and on behalf of whom contributions are no longer made but who has not yet begun to receive retirement benefits from the plan.
DEFERRED RETIREMENT	A situation where a plan member draws benefits later than the normal plan retirement age.

DEFINED BENEFIT PLAN	Any pension plan other than a defined contribution plan, including all plans under which the financial or longevity risk is borne by the plan sponsor. Benefits are typically based on a formula including accrual rate, pensionable salary and length of employment.
DEFINED CONTRIBUTION PLAN	A pension plan under which benefits are solely based on the amount contributed to the plan plus the investment return thereon and the investment risk is borne by the plan members.
DISABILITY BENEFITS	The benefits provided by a pension plan to a plan member whose earnings capacity is reduced due to disablement.
DISCLOSURE REGULATIONS	The rules prescribing the periodicity, procedure, type and extent of information to be provided and by whom to plan members and/or the supervisory authority.
DISPUTE SETTLEMENT PROCEDURE	A procedure established by the pension plan administrator or the regulatory or supervisory authority to solve conflicts between plan members and institutions involved in the operation of the pension plan.
EARLY RETIREMENT	A situation where a plan member draws benefits earlier than the normal plan retirement age.
EET SYSTEM	A form of taxation system whereby contributions and investment income and capital gains are tax-exempt while benefits are taxed.
ENFORCEMENT OF AFFILIATION	The procedure of ensuring that persons covered by a mandatory plan become members as required.
ETE SYSTEM	A form of taxation system whereby contributions and benefits are tax-exempt while investment income and capital gains are taxed.
FIDUCIARY	An individual, corporation or association holding assets for another party and whose duty it is to manage those assets on behalf of, and in the interests of, the other party.
FUNDED PENSION PLAN	A pension plan that has accumulated dedicated assets to pay for benefits.
FUNDING	The act of accumulating assets in order to finance benefits.
FUNDING LEVEL	The relative value of assets and liabilities, usually expressed as a percentage figure.
FUNDING PLAN	A plan usually prepared by an actuary setting out the timing of payment of contributions with the aim of meeting the cost of a given set of benefits under a defined benefit scheme. Possible objectives of a funding plan might be that, if the actuarial assumptions are borne out: a) a specified funding level should be reached by a given date; b) the level of contributions should remain constant, or should after a planned period be the standard contribution rate required by the valuation method used in the actuarial valuation.

GOVERNANCE	The manner in which power and authority are exercised, including management, legal framework, accountability and transparency. Specifically with regard to pension funds, the responsibility for the operation and oversight by the governing body of the pension fund which may employ specialists, such as actuaries, custodians, consultants, asset managers and other advisors to carry out specific operational tasks or to advise them on plan administration.
GROSS RATE OF RETURN	The rate of return of an asset or portfolio over a specified time period, prior to discounting any fees or commissions.
GUARANTEED ANNUITY	An annuity that is paid until the death of the annuitant. If this occurs prior to a certain date, the annuity is paid to the annuitant's dependents until that date.
GUARANTEE FUND	A fund that guarantees a certain level of benefits in payment to beneficiaries and/or the accrued benefits or accumulated capital of plan members in the case of insufficient plan assets.
HYBRID PLAN	A plan that combines features of both defined benefit and defined contribution plans.
INDIVIDUAL ACCOUNT	An arrangement in which capital belonging to an individual person accumulated from mandatory or voluntary contributions is recorded so that it may be withdrawn in the case of certain specified future contingencies.
INDIVIDUAL ACTION	The right of plan members to bring civil or criminal action against pension plan administrators and other service providers who fail in their duties.
INDIVIDUAL TRUSTEE	An individual that acts as a trustee.
INDUSTRY-WIDE PENSION PLAN	An occupational pension plan sponsored by several employers belonging to the same industry sector and the membership of which is restricted to employees of employers in this industry sector. The establishment of such a plan is usually subject to collective bargaining.
INSOLVENCY INSURANCE	The requirement to insure accrued benefits or accumulated capital against insolvency of a plan sponsor or administrator.
INSURED PLAN	A pension plan under which benefits are provided entirely through insurance contracts.
INTEGRATED SUPERVISORY AUTHORITY	A supervisory authority that supervises different financial service providers (e.g. banks, insurance companies, pension plan administrators etc.).
INTEGRATION	The interconnectedness of benefits provided under the publicly administered social security scheme and private pension plans.

LUMP SUM	A one-off cash payment representing part or all of the cash value of the beneficiary's accrued benefits or accumulated capital.
MANDATORY CONTRIBUTION	A contribution the plan sponsor or member is required by law to make to a pension plan.
MANDATORY OCCUPATIONAL PENSION PLAN	An occupational pension plan in which at least one employer is required by law to participate as plan sponsor.
MANDATORY PERSONAL PENSION PLAN	A personal pension plan of which covered individuals must become members by law.
MINIMUM STATE PENSION	A flat rate benefit paid by the State to individuals subject to certain conditions.
MEMBER REPRESENTATION	The right of plan members to represent their interests in the plan administration and the procedure to ensure this representation.
MONEY PURCHASE PLAN	A type of defined contribution pension plan providing benefits on a money purchase basis (i.e. an individual member's benefits are determined by reference to contributions paid into the scheme in respect of that member, usually increased by an amount based on the investment return on those contributions).
METHOD OF FINANCING	The manner in which benefits are financed, e.g. funding or pay-as-you-go financing.
MORTALITY TABLE	A chart showing the rate of death at each age.
MULTI-EMPLOYER PLAN	An occupational pension plan sponsored by several employers.
NET RATE OF RETURN	The rate of return of an asset or portfolio over a specified time period, after discounting any fees or commissions.
NONCONTRIBUTORY PENSION PLAN	A pension plan under which members are not required to make contributions in order to receive benefits.
NORMAL PLAN RETIREMENT AGE	The standard age defined by law or, if no legal rules apply, by plan rules at which plan members are eligible for old-age benefits.
OCCUPATIONAL PENSION PLAN	A plan the membership of which is linked to an employment relationship between the plan member and the plan sponsor.
OMBUDSMAN	A person to whom plan members can complain about the actions of institutions (or individuals in some cases) involved in the operation of a pension plan.
OPEN PENSION FUND	A pension fund implementing a pension plan the membership of which is not restricted to a certain defined category of persons.
OPEN PENSION PLAN	A pension plan the membership of which is not restricted to a certain defined category of persons.

OVERFUNDING	The situation when the actuarial liability is less than the actuarial value of assets (also referred to as actuarial surplus).
PASSIVE MEMBER	A pension plan member who is receiving benefits.
PAY-AS-YOU-GO FINANCING	A pension plan under which current benefits are financed by current contributions.
PENSION	A regular income stream provided by a pension plan administrator in line with plan rules for a specified number of years or for a remaining lifetime.
PENSIONABLE SALARY	The amount of salary that is taken into account for the calculation of benefits.
PENSIONABLE SERVICE	The length of service that is taken into account for the calculation of benefits.
PENSION FUND	A pool of assets accumulated for the purpose of financing current or future benefits. In some cases a special purpose legal entity.
PENSION PLAN	A legally binding contract that has an explicit retirement objective but which may also provide disability and survivor benefits. The contract may be part of a broader employment contract, may be set out in plan rules or documents or it may be required by law.
PENSION PLAN ADMINISTRATOR	The individual(s) or company responsible for the operation of the pension plan, in particular the management of the contribution and benefit administration. May also be referred to as pension fund administrator if the plan is implemented through the establishment of a pension plan.
PENSION PLAN SPONSOR	An institution (e.g. employer, industry/employment association) that designs, negotiates, and establishes a pension plan.
PERSONAL PENSION PLAN	A plan the membership of which need not be linked to any employment relationship.
PLAN MEMBER	A person who is either an active (contributing), passive (retired and receiving benefits), or deferred (with preserved benefits) participant in a pension plan.
POOLED FUND	A pension fund in which the assets of several pension plans are pooled for investment.
PORTABILITY	Upon changing employers, the right to stay a member of the same pension plan.
PRESERVATION	Upon changing employers, the right to preserve the accrued benefits or accumulated capital in the pension plan of the former employer.
PRESERVED BENEFITS	The accrued benefits or accumulated capital of deferred members that become payable at the plan retirement age.

PRIVATE PENSION PLAN	A pension plan administered by a nonstate institution.
PROJECTED BENEFIT OBLIGATION	The actuarial present value of all benefits, including benefits in payment, vested and nonvested accrued benefits based on members' future salary levels and employee service rendered to a particular date.
PROVIDENT PLAN	A type of defined contribution plan implemented through a provident fund that provides a lump sum at retirement.
PRUDENT PERSON RULE	The requirement to exercise any powers with the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.
PUBLIC PENSION PLAN	A pension plan administered by a state institution.
QUANTITATIVE INVESTMENT RESTRICTIONS	Minimum and/or maximum limits on the investment of pension plan assets in different asset classes with the purpose of reducing investment risks and ensuring sufficient diversification.
RATE OF RETURN	The income earned by holding an asset or portfolio over a specified time period.
REGULATORY AUTHORITY	A governmental authority with competence over the regulation of pension systems.
RELATIVE RATE OF RETURN GUARANTEE	A minimum rate of return guarantee determined with reference to an index, usually the nominal or real rate of return achieved by all managers of pension plan assets or government bonds.
SELF-INVESTMENT	The investment of plan assets in the plan sponsor.
SINGLE-EMPLOYER PLAN	An occupational pension plan sponsored by one employer.
STANDARDS FOR SERVICE PROVIDERS	The standards regarding authorization, fitness and propriety etc. that service providers (e.g. auditors, actuaries, custodians) must fulfil.
SUPERVISORY AUTHORITY	A governmental authority with competence over the supervision of occupational and/or personal pension plans.
SURVIVOR BENEFITS	The benefits provided by a plan to the eligible survivors of deceased members.
TEE SYSTEM	A form of taxation system whereby contributions are taxed while investment income, capital gains and benefits are tax-exempt.
TRANSFERABILITY	The right to transfer the accrued benefits or accumulated capital to the pension plan of the new employer or other pension plan permitted by law.
TRUST	A legal entity under which named people (termed trustees) hold and administer property on behalf, and for the benefit, of other people (termed beneficiaries).

TRUSTEE	An individual or a company appointed to carry out the tasks of the trust.
UNDERFUNDING	The situation when the actuarial value of assets is less than the actuarial liability (also referred to as actuarial deficiency).
UNISEX ANNUITY RATE	An annuity rate that is the same for men and women.
UNISEX MORTALITY TABLE	A mortality table that shows a single set of mortality rates that are the same for both men and women at the same age.
VESTED RIGHTS	The accrued benefits or accumulated capital to which plan members have a legal right.
WAITING PERIOD	The length of time an individual must be employed by a particular employer before being eligible to join the occupational pension plan sponsored by this employer.
WHISTLEBLOWING	The requirement for service providers to notify the Supervisory Authority under certain prescribed circumstances or in the case of specific events such as noncompliance with legal requirements or plan rules.
WINDING UP	The termination of a pension plan by either providing (deferred) annuities for all plan members or by moving all its assets and liabilities to another plan.
WITHDRAWAL OF FUNDS BEFORE RETIREMENT	The possibility of receiving benefits before the early plan retirement age (e.g. in the case of unemployment or for the purchase of a house).

OECD PUBLICATIONS, 2, rue André-Pascal, 75775 PARIS CEDEX 16
PRINTED IN FRANCE
(21 2008 02 1P) ISBN 97-89-264-04347-3 – No. 56267 2008

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ISBN 978-92-64-04347-3
21 2008 02 1 P

