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.

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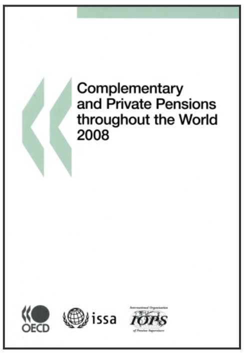

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