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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Contents

Introduction

Country or Territory Profiles

Glossary