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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