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
Calle 7 Nro. 4-49
Bogotá, D.C.
Colombia
Tel.: (+571) 5 94 02 00/01
Fax.: (+571) 3 50 79 99 - 3 50 57 07
Internet: www.superbancaria.gov.co

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.

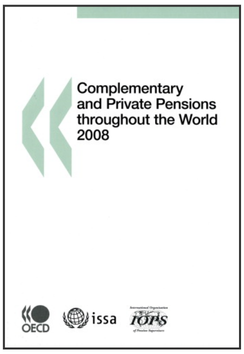
Financial Superintendence
Calle 7 No. 4-49
Bogotá, D.C.
Colombia
Tel.: (+571) 5 94 02 00/01
Fax.: (+571) 3 50 79 99 - 3 50 57 07
Internet: www.superfinanciera.gov.co

Contents

Introduction

Country or Territory Profiles

Glossary



From:
Complementary and Private Pensions throughout the World 2008

Access the complete publication at:
https://doi.org/10.1787/9789264048829-en

Please cite this chapter as:

OECD/International Social Security Association/International Organisation of Pension Supervisors (2008), "AMERICAS - Mandatory (Information valid at 01-07-2005): Colombia", in *Complementary and Private Pensions throughout the World 2008*, OECD Publishing, Paris.

DOI: https://doi.org/10.1787/9789264048829-16-en