Dominican Republic

Exchange rate: USD 1.00 equals 28.60 pesos (DOP).

Regulatory Framework

2002: Decree 969; sets guidelines for compliance with Law 87/2001.

2001: Law 87; creates the Dominican System of Social Security which replaces the previous PAYG scheme and introduces the new private pension scheme; regulates the establishment and operation of pension fund administrators, asset management and the protection of rights, and creates the Pensions Superintendence (*Superintendencia de Pensiones* - (SP).

Types of Schemes

All covered persons must become members of the Dominican System of Social Security, comprising a:

- Contributory scheme for employees;
- Subsidized scheme for self-employed persons who have variable income lower than the minimum national salary;
- Contributory subsidized scheme for professionals, technicians and self-employed persons with incomes higher than the minimum national salary.

The system also includes a social solidarity fund, administered by the public pension fund administrator, to provide the minimum retirement benefit guarantee. A National Social Security Council (*Consejo Nacional de Seguridad Social - CNSS*) with state, employer and worker representatives was established under the law to oversee the system.

Membership of the contributory scheme is mandatory for all private-sector employees under age 45 in 2001. It is a defined contribution scheme financed by employer and employee contributions which are invested in individual accounts administered by pension fund administrators (*Administradoras de Fondos de Pensiones* - AFPs).

Workers may choose the AFP to which they wish to affiliate without any influence of their employer. They may transfer their individual account to another AFP every year as long as they have made at least 6 monthly contributions to the same AFP.

The subsidized scheme for the self-employed is financed entirely by the state and is not covered further in the following paragraphs.

The contributory subsidized regime is financed by members' and state contributions and was planned to start in August 2005 but has been postponed. It is not covered further in the following paragraphs.

Self-employed workers may voluntarily become members of the contributory scheme until the contributory subsidized scheme is implemented.

Public pension schemes (other than the old PAYG pension scheme) such as for the armed forces etc. may also remain in force if benefits provided by them are at least equal to those of the new contributory scheme for employees.

Members may pay voluntary contributions to their individual accounts.

Institutional Framework

Employees' contributory scheme: Pension fund administrators (AFPs) are financial institutions constituted according to Dominican Republic law and may be established as public, private or mixed companies.

AFPs must be established for the exclusive tasks of fund administration, investing individual account balances, and managing payments of pension benefits. They may establish and manage more than one pension fund and may also manage complementary pension funds (currently 21 complementary pension funds are managed by AFPs). The state must have at least one AFP. The public AFP Reservas also administers the social solidarity fund in accordance with the same pension fund regulations.

The Pensions Superintendence (SP) authorizes the establishment of AFPs and thereafter supervises them. Financial institutions intending to establish an AFP must provide the following documents to the SP:

- Project of the social contract and statutes;
- Details of the stockholders, managers, board members and main executive officers;
- The establishment and operational plan for the AFP;
- The AFP's feasibility study;
- Organization, policies and procedures draft manual;
- Information technology system plan;
- Name of the executive and their deputy who will interact with the Superintendence;
- Fees policy;
- Investment policy of the funds complying with legally established limits.

At their establishment, AFPs must have a minimum capital of DOP 12,874,000 which has to be increased by 10% for each 5,000 members in excess of 10,000. The minimum capital requirement is adjusted every January according to the consumer price index calculated by the Dominican Central Bank.

Currently seven AFPs exist:

- AFP Siembra
- AFP Reservas (state owned)
- BBVA Crecer AFP
- AFP Popular
- AFP León
- AFP Caribalico
- AFP Romana

Members of the board of directors of AFPs cannot be executives or members of the board of commercial banks, mutual or investment funds, stock exchange, financial intermediaries and stock brokers.

At least 95% of the pension fund assets managed by an AFP must be held in the custody of the Dominican Central Bank, which keeps separate accounts for each pension fund.

Each AFP must have at least one public caller office in order to provide specialized information to members. AFPs may also open regional and foreign offices to provide a better service to members.

Each AFP must sign a collective life contract with an insurance company to guarantee the funding of survivor and disability benefits.

The Treasury of Social Security (*Tesorería de la Seguridad Social* - TSS) collects contributions and distributes them to the appropriate AFP for payment into the individual accounts, and to pay the administration fees and life insurance premiums. AFPs are responsible for benefit and fund administration.

Social solidarity fund: The state owned AFP Reservas administers this fund in accordance with the pension fund regulations applying to all AFPs.

Coverage

Covered population

Employees' contributory scheme: The scheme is mandatory for all private-sector employees aged 45 or less in August 2001, for all new employees who did not belong to the old scheme, and for those who receive regular payments as directors or owners of enterprises. The scheme was implemented on 1 June 2003.

Public-sector employees covered by special laws (Law No. 379-81 and No. 414-98), public- and private-sector employees aged over 45 in August 2001, Dominicans living abroad and those who belonged to pension schemes (other than the old PAYG scheme) such as for the armed forces etc. may all voluntarily choose to belong to the employees' contributory scheme. However, once the option is made members cannot return to their previous scheme.

Self-employed workers may voluntarily become members of the contributory scheme until the contributory subsidized scheme is implemented.

Social solidarity fund: Not applicable.

Enforcement of affiliation

Employees' contributory scheme: Covered persons have 30 days in which to choose to which pension fund administrator (AFP) to affiliate. If a person does not choose, the employer must, within a further 10 days, affiliate the person to the AFP with the largest membership base among the company's employees.

AFPs may contract with marketing agents to promote the AFP and acquire new members. Marketing agents must be authorized by, and registered with, the Pensions Superintendence (SP).

AFPs are not allowed to refuse any request for membership from eligible persons and members cannot have more than one individual account.

Social solidarity fund: Not applicable.

Financing / Investment

Sources of funds

Employees' contributory scheme: Total monthly employer/employee contribution is 7.6% of the contributory salary split as follows:

- 6% for the individual account;
- 1% maximum for the member life insurance;
- 0.5% for the AFP administration fee;
- 0.1% for financing the Pension Superintendence (SP).

The individual account percentage will increase 1% in 1 June 2006 and 1% in 1 June 2007.

Employers must pay their own and employees contributions within the first 3 working days of the following month.

Social solidarity fund: Employers pay 0.4% of members' contributory salary.

Member contributions

Employees' contributory scheme: 2.28% (30% of the total employer / employee contribution rate) of the monthly contributory salary.

The minimum contributory base salary for employees is the legal minimum wage of the sector in which the member works. The maximum is 20 times the monthly national legal minimum salary (i.e. 20 times DOP 4,900). If affiliate members have more than one job, or perform independent activities in addition to their normal employment, contributions are paid on the sum of all salaries.

Voluntary contributions are not yet regulated.

Social solidarity fund: None.

Employer contributions

Employees' contributory scheme: 5.32% (70% of the total employer / employee contribution rate of 7.6%) of members' monthly contributory salary.

The minimum contributory base salary for employees is the legal minimum wage of the sector in which the member works. The National Social Security Council (CNSS) had not specified the minimum monthly sectoral salaries by January 2005. The maximum is 20 times the monthly national legal minimum salary (i.e. 20 times DOP 4,900).

Social solidarity fund: 0.4% of members' contributory salary.

Other sources of funds

Employees' contributory scheme: None.

Social solidarity fund: None.

Methods of Financing

Employees' contributory scheme: Funded in individual accounts.

Social solidarity fund: Not applicable.

Asset Management

Employees' contributory scheme: Pension fund administrators (AFPs) must invest the assets of the pension funds that they manage in the following legally established asset classes:

- Up to 70% in corporate obligations;
- Up to 60% in term deposits and related obligations issued by the banking system;
- Up to 30% in mortgages (housing);
- Up to 30% in quoted shares;
- Up to 20% in development housing funds;
- Up to 10% in obligations issued by the National Housing Bank.

All transactions must be made in formal markets.

A Qualifying Risk Commission, which also determines the diversification of investments among the general categories, sets the above-mentioned limits for investing in those instruments and sets risk ratings. The commission comprises the Superintendents of Pensions, Banking, and Insurance, the President of the Securities Commission, the President of the Dominican Central Bank and a technically qualified person representing the scheme members. The quorum for any meeting of the Commission is three and decisions are taken on a majority basis. Decisions are published in the national press.

AFPs may not invest pension fund assets in shares of other AFPs, insurance companies, or rating agencies. Investment of pension fund assets in companies owned by shareholders or executives of the AFP managing the fund is limited to a maximum of 5% of the total fund.

AFPs must guarantee a minimum real rate of return which must not be less than the weighted average real rate of return of all pension funds minus 2%. To guarantee the minimum real rate of return, AFPs must establish a guarantee return account that is equal to 1% of the pension fund assets and may not be used for any other purpose. If it is not sufficient to pay any deficit in the minimum real rate of return, AFPs must use their own assets to cover it.

AFPs have 15 days to redress any deficit in the real rate of return. If they do not do so the Pensions Superintendence (SP) will revoke its authorization and the AFP will be wound up without judicial intervention.

Social solidarity fund: The state owned AFP Reservas must administer the social solidarity fund in accordance with the same regulations that apply to pension funds.

Benefit provisions

Preservation, portability, transferability

Employees' contributory scheme: Members may transfer their individual account balance from one pension fund administrator (AFP) to another after completing at least 6 monthly contributions to the same AFP. Members can also transfer their accounts at any time if the AFP's rate of return is less than the minimum established by law (see section Asset Management) for 2 continuous or 3 discontinuous months or if the AFP breaks the affiliation contract. Members may also transfer to another AFP within 3 months of notification that their current AFP is to be merged with another.

Members may decide annually the portfolio in which they wish to invest. If a member does not choose any of the funds available the AFP must invest the member's assets in the fund managed by the AFP that has the lowest risk.

Social solidarity fund: Not applicable.

Retirement Benefits

Benefit qualifying conditions

Employees' contributory scheme: Men and women age 60 or over with 360 or more months of contributions or men and women age 55 or over with an individual account balance sufficient to provide a benefit higher than 50% of the minimum monthly benefit.

Members age 57 or over (men and women) with 300 months of contributions who are unemployed may receive advanced-age unemployment benefit.

Social solidarity fund: Members age 65 or over (men and women) who have contributed for 300 months or more but whose individual account is not sufficient to finance the minimum monthly benefit may receive a supplement from the social solidarity fund to raise the benefit up to the minimum level.

Withdrawal of funds before retirement

Employees' contributory scheme: Not permitted.

Social solidarity fund: Not applicable.

Benefit structure / formula

Employees' contributory scheme: Retirement benefit may be paid as programmed withdrawals or as a life annuity.

- In the case of programmed withdrawals the account balance remains with the pension fund administrator (AFP) which then pays the retirement benefit to the member. At any time the member may change the payment method to life annuity.
- In the case of life annuity the account balance is transferred to an insurance company chosen by the member. The insurance company will pay the life benefit. Once made, this choice is irrevocable. Only members whose individual account balance is sufficient to finance the minimum monthly benefit may choose this method of payment.

In both cases the amount of the benefit is determined by actuarial methods and the individual account balance.

Programmed withdrawals and life annuities are calculated according to the real technical interest rate of 5%.

The retirement benefit is paid monthly plus one additional monthly payment at the end of the year.

The minimum monthly retirement benefit is equal to the lowest sectoral minimum monthly salary. The National Social Security Council (CNSS) had not specified the minimum monthly sectoral salaries by January 2005 and therefore not set the minimum monthly retirement benefit.

Members who meet the conditions for advanced-age unemployment benefit may receive a life annuity equal to the minimum monthly benefit financed with the individual account balance topped up from the social solidarity fund if necessary.

Advanced-age unemployment benefit may not be higher than the last salary received by the member whilst still in employment.

Members who have paid less than 300 months of contributions receive retirement or advanced-age unemployment benefit paid with the individual account balance only. In this case members may pay additional contributions to bring the contributions up to 300 months or wait until age 65 to receive the social solidarity fund top-up in order to receive the minimum monthly benefit.

Members age 45 or less when the new scheme came into force and those who opted for the new scheme will receive a recognition bond with an annual real rate of return of 2% payable at retirement.

Beneficiaries with two or more benefits, or with vested rights, keep these benefits or rights if they are derived from different contributory schemes when the new employees' contributory scheme came into force.

Social solidarity fund: Provides a supplement where necessary to raise the retirement benefit up to the minimum monthly benefit.

Benefit adjustment

Employees' contributory scheme: All retirement benefits are adjusted according to the consumer price index.

Social solidarity fund: Not applicable.

Survivors

Benefit qualifying conditions

Employees' contributory scheme: Deceased members must have been active insured members at the date of death. Eligible survivors are:

- Spouse married to the deceased for at least 6 months prior to the date of the insured member's death, or companion who proves at least 3 years of cohabitation. These conditions may be waived if the spouse / companion is pregnant or disabled;
- Children under age 18 (under age 21 if student, without age limit if disabled).

If there are no eligible survivors the member's individual account balance is paid to the heirs.

Social solidarity fund: Not applicable.

Benefit structure

Employees' contributory scheme: Survivor benefit is calculated as a percentage of the deceased member's base salary, as follows:

- 50% for an eligible spouse or companion;
- 50% for eligible children.

Benefit paid to an eligible spouse or companion lasts 60 months if the survivor is aged 50 or less, 72 months if between age 50 and age 55, and for life if over age 55.

The base salary is the average of the member's last 3 years' contributory salary adjusted according the consumer price index.

If there is no eligible spouse or companion, the 50% spouse / companion benefit is divided among eligible children. If there are no eligible children, the spouse / companion survivor benefit remains at 50% of the member's base salary.

Percentages for other survivors do not increase if beneficiaries lose the right to receive benefits.

Minimum survivor benefit is 60% of the base salary. Maximum benefit is determined by the contributory salary's upper limit.

Survivor benefit is financed with the individual account balance plus the insurance company payment. The insurance company pays the survivor benefit monthly with one additional monthly payment at the end of the year.

Social solidarity fund: Not applicable.

Benefit adjustment

Employees' contributory scheme: Survivor benefits are adjusted according to the consumer price index.

Social solidarity fund: Not applicable.

Disability

Benefit qualifying conditions

Employees' contributory scheme: Disability benefit may only be paid once entitlement to any sickness benefit from ordinary risk has been exhausted.

Total disability benefit is paid when work capacity is reduced by at least 67%. Partial disability benefit is paid when work capacity is reduced between 50% and 67%.

Members must have paid all contributions at the date of onset of disability.

The degree of reduction in work capacity must be certified by the Departmental Qualifying Commission which awards full or partial disability benefit or denies the request. Three years after the preliminary decision, the member will be recalled by the commission, which can then certify permanent disability benefit or revoke its previous decision.

Social solidarity fund: Not applicable

Benefit structure

Employees' contributory scheme: Total disability benefit is 60% of the base salary. Partial disability benefit is 30% of the base salary.

The base salary is the average of the member's last 3 years' contributory salary adjusted according to the consumer price index.

Disability benefits are financed by the insurance company. Contributions must continue to be paid by the insurance company (deducted from the disability benefit) into the member's individual account.

Minimum and maximum disability benefits are determined by the contributory salary limits.

Social solidarity fund: Not applicable.

Benefit adjustment

Employees' contributory scheme: Disability benefits must be adjusted every 3 years.

Social solidarity fund: Not applicable.

Protection of Rights

Protection of Assets

Employees' contributory scheme: Pension fund assets must be held in individual accounts and are the exclusive property of the respective affiliate members. Assets must be kept separately from the assets of the pension fund administrator (AFP) and must be only used to finance benefits.

At least 95% of the pension fund assets managed by an AFP must be held in the custody of the Dominican Central Bank, which keeps separate accounts for each pension fund.

Social solidarity fund: Not applicable.

Financial and Technical Requirements / Reporting

Employees' contributory scheme: Pension fund administrators (AFPs) must provide daily information to the Pensions Superintendence (SP) related to the operation of individual accounts and financial trading of pension fund assets. They must also report monthly to the SP on the composition, amount and limits of the portfolio of each fund that they manage.

AFPs' financial reports must be backed by the corresponding documentation in compliance with guidelines established by the SP, general accounting principles or international accounting standards. AFPs have to keep physical and electronic records of the required files.

AFPs must publish an annual report in the press or by other means which must include the:

- Balance sheet;
- Income statement;
- Changes in the assets statement;
- Cash flow positions;
- Explanatory notes to the financial positions.

Each AFP must publish in a national newspaper end of year financial information for the AFP and for the pension funds it manages no later than 15 April every year. Financial reports must be audited by external auditors authorized by the SP.

AFPs must also publish, at least quarterly, in a national newspaper position statements and result accounts for itself and for the pension funds managed.

Social solidarity fund: Not applicable.

Whistleblowing

Employees' contributory scheme: No legal rules.

No legal responsibility on service providers to inform the Pension Superintendence (SP) about violations of legal requirements.

Social solidarity fund: Not applicable.

Standards for service providers

Employees' contributory scheme: External auditors that audit financial reports must be authorized by the Pension Superintendence (SP). Marketing agents of pension funds administrators must be authorized by, and registered with, the SP.

No legal requirements for actuaries to be authorized by, or registered with, the SP.

Social solidarity fund: Not applicable.

Fees

Employees' contributory scheme: Pension fund administrators (AFPs) charge a monthly fee for the administration of individual accounts, regardless of investments returns, which must be a maximum of 0.5% of the contributory salary. AFPs may charge an additional annual fee of up to 30% of the return achieved above the rate of interest on deposits in commercial banks, but the minimum return on the individual account cannot be less than the AFP's average return minus 2% (see section Asset Management). AFPs may also charge for optional services provided at the explicit request of members.

Transaction costs of trading pension fund assets are charged as an administrative expense of the AFP and do not reduce the pension fund return.

Fees charged by AFPs must be published in two national newspapers.

Social solidarity fund: Not applicable.

Winding up / Merger and acquisition

Employees' contributory scheme: Mergers of pension fund administrators (AFPs) must comply with the provisions of the Commerce Code and must be authorized by the Pension Superintendence (SP). Following authorization, notice of the merger and commissions charged by the resulting AFP must be published in two national newspapers within 5 days of the merger taking place. Mergers must not reduce AFPs' and pension funds' assets.

Members must be informed of the merger and may transfer to another AFP within 3 months of the notification.

Social solidarity fund: Not applicable.

Bankruptcy: Insolvency Insurance / Compensation Fund

Employees' contributory scheme: A pension fund administrator (AFP) is considered bankrupt when it manifestly and continuously is unable to comply with the minimum capital requirements and to meet its liabilities, even if it has not started the formal bankruptcy process.

If the AFP does not reach the minimum capital (see section Institutional framework) in the specified time the Pensions Superintendence (SP) will revoke its authorization to operate and will order its dissolution and liquidation. Members of the bankrupt AFP should choose a new AFP within 30 days of the date of the order. If they do not choose an AFP they will be assigned to one by the Treasury of Social Security (TSS) according to the AFP's market share.

The SP may also appoint an administrator to manage the AFP during the liquidation process.

Social solidarity fund: Not applicable.

Disclosure of information / Individual action

Employees' contributory scheme: Every 6 months, pension fund administrators (AFPs) must notify members of their individual account's position, indicating changes in the account balance, deposits made, return of the fund, commissions charged and number and current value of the quotas. The information must be sent no later than 30 days after the end of each six-month period (i.e. 30 June and 31 December). Affiliates can ask AFPs for additional account position statements, but the AFP will charge the member for these additional optional services.

AFPs must announce in an accessible place for members a report with the following information:

- Institutional background;
- Amount of the AFP's and its pension funds' quota value;
- Commissions charged
- Name of the contracted insurance company and the amount of premiums paid;
- Total assets and asset allocation of the pension fund portfolios;
- Pension funds' average return in the last 12 months.

The Direction of Members' Information and Defence (*Dirección de Información y Defensa de los Afiliados*), a public office under the supervision of the National Counsel of Social Security (CNSS), provides assistance to members. It is responsible for members' orientation and defence informing them about their rights and duties, attending to their requests, investigating complaints. It provides orientation services and legal support for free.

Social solidarity fund: Not applicable.

Other measures

Employees' contributory scheme: No legal rules.

Social solidarity fund: No legal rules.

Tax Treatment

Taxation of member contributions

Employees' contributory scheme: Mandatory contributions are tax-exempt. Voluntary contributions are tax-exempt up to three times the mandatory contribution.

Social solidarity fund: Not applicable.

Taxation of employer contributions

Employees' contributory scheme: Tax-exempt.

Social solidarity fund: Not applicable.

Taxation of investment income

Employees' contributory scheme: Tax-exempt.

Social solidarity fund: Not applicable.

Taxation of benefits

Employees' contributory scheme: Tax-exempt up to a maximum monthly benefit of five times the minimum monthly national salary (i.e. 5 times DOP 4,900).

Social solidarity fund: Not applicable.

Regulatory and Supervisory Authorities

Pensions Superintendence: The Pensions Superintendence (SP) is an autonomous public institution with legal authority to oversee the employees' contributory scheme.

The chief executive of the SP is the Pensions Superintendent appointed by the National Counsel of Social Security (CNSS) and designated by decree of the Executive Branch of the national government for a four-year period, with the possibility of re-appointment. The Superintendent must be Dominican, be at least age 30, have professional qualifications, at least 5 years experience, demonstrate administrative and managerial competence and qualify for a fidelity bail. The Superintendent may be suspended in case of serious fault.

The SP has the power to request and examine at any moment all information about pension fund administrators (AFPs) and the pension funds they manage. The SP authorizes the establishment of AFPs and may also decree their dissolution or liquidation.

The Superintendence oversees pension funds' investments, establishes standards for financial statements, determines the minimum requirements for insurance contracts and oversees service providers (i.e. custodians, risk rating agencies, insurance companies). It may also impose sanctions on AFPs.

The SP, jointly with the Insurance Superintendence, authorizes the establishment of, and supervises, insurance companies that offer annuities to members.

The SP is financed by 0.1% of the contributory salary discounted from the total employer / employee contribution.

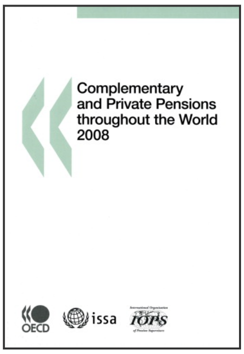
Superintendencia de Pensiones
Ave. México No. 30 Gazcue
Santo Domingo
Domican Republic
Tel.: (+1 809) 4 72 00 10
Fax: (+1 809) 4 73 40 07
Internet: www.sipen.gov.do

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): Dominican Republic”, in *Complementary and Private Pensions throughout the World 2008*, OECD Publishing, Paris.

DOI: https://doi.org/10.1787/9789264048829-18-en