

Mexico

Exchange rate: USD 1.00 equals
10.88 new pesos (MXN).

Regulatory Framework

1999: Law for the Protection and Defence of Financial Service Users; creates the National Commission for the Protection and Defence of Financial Service Users (*Comisión Nacional para la Defensa de los Usuarios de Servicios Financieros* - CONDUSEF) to respond to and resolve any inquiries or claims that are presented to it, to conduct the necessary conciliatory procedures and to offer guidance and legal advice to users in any dispute brought to court by them against financial institutions.

1996: Regulations to the Retirement Savings Systems Law; specifies some of the requirements defined in the Retirement Savings Systems Law.

1996: Retirement Savings Systems Law; defines the structure and powers of the Mexican Pension Fund Regulatory and Supervisory Agency, the National Commission for the Retirement Savings System (*Comisión Nacional del Sistema de Ahorro para el Retiro* - CONSAR) and regulates the establishment, operation and supervision of Retirement Fund Administrators (*Administradoras de Fondos para el Retiro* - AFORES) and Investment Funds Specialized in Retirement Savings (*Sociedades de Inversión Especializadas de Fondos para el Retiro* - SIEFORES).

1995: Social Security Law; establishes the system of mandatory private pension schemes, regulates coverage, contributions and the relationship between the old publicly managed social security scheme and the system of mandatory private pension schemes.

Types of Schemes

All covered persons must become a member of the mandatory private pension scheme provided

by Retirement Fund Administrators (AFORES), which establishes and manages Investment Funds Specialized in Retirement Savings (SIEFORES). The scheme is open to all eligible persons who apply for membership.

The scheme is defined contribution and contributions are accumulated in individual accounts.

All eligible persons may choose freely and without any intervention of the employer an AFORE for the management of their individual accounts. All individual accounts are composed of the following three sub-accounts:

- Retirement, severance at advanced age and old-age insurance contributions' sub-account;
- Housing contributions' sub-account;
- Voluntary contributions' sub-account.

The assets in the housing sub-account are, while being reflected in the AFORE account balance of the member, managed by the National Housing Fund Institute (INFONAVIT).

Members and employers can make two types of voluntary additional contributions without limit. The first type is voluntary contributions made by the employee, and they can be withdrawn, depending of the AFORE, three to six months after being made. The second type is known as complementary retirement contributions, which cannot be withdrawn until the insured is eligible for a pension. At retirement, they can be withdrawn either as a complement to the pension or as a lump-sum payment.

Institutional Framework

Mandatory personal scheme: Retirement Fund Administrators (AFORES) must be corporations with independent capitalization and have the sole business purpose of establishing and managing Investment Funds Specialized in Retirement Savings (SIEFORES) and the individual accounts of its members.

AFORES may be controlled by foreign financial institutions (but not by individuals or manufacturers and other businesses) from countries that signed international treaties with Mexico for the

liberalization of financial services. Foreign-owned AFOREs receive equal treatment with Mexican-owned AFOREs and are not subject to the market share limitations that Mexico enforces against foreign-owned banks and brokers/dealers.

Each AFORE must maintain a minimum paid-in capital of MXN 25 million and SIEFORES must maintain a minimum paid-in capital of MXN 4 million for SIEFORE Básica 1 and MXN 100,000 for SIEFORE Básica 2 (see section on Asset Management) or additional SIEFORES. A special reserve equal to the greater of UDI 8 million (*Investment Units*, approximately equal to USD 2.62 million) or 1.65 times the maximum VAR (Value at Risk) allowed to each of the SIEFORES Básicas. The special reserve for additional SIEFORES is 1% of assets under management up to a maximum of MXN 900,000. The paid-in capital and the special reserve must be invested in the SIEFORES managed by the AFORE.

The establishment of an AFORE requires the authorization of the National Commission for the Retirement Savings System (CONSAR) which may be granted or refused at the discretion of the latter. In assessing whether an authorization is to be granted, CONSAR examines:

- The business plan of the AFORE;
- Its automated systems;
- Its internal control and management capacities.

Each AFORE must be managed by a board of directors consisting of at least five members and must have a compliance officer responsible for ensuring compliance with legal requirements and internal rules through establishing a process of self-regulation. AFOREs must provide sufficient means to compliance officers to enable them to perform their functions adequately. The compliance officer must attend all meetings of the board of directors.

Compliance officers must:

- Have at least 5 years of adequate professional experience;
- Have the reputation of being an ethical person;
- Have demonstrated their technical and administrative capacities.

Compliance officers must be approved by CONSAR and this approval may be withdrawn if they no longer comply with the established requirements. There are, however, no fit and proper requirements concerning the members of the board of directors of an AFORE.

AFOREs must have automated systems sufficient for the administration of individual accounts and fulfil technical requirements regarding support, disk space and processing capacities. AFOREs are also required to have a digital electronic channel of telecommunications and systems to keep statistical information concerning the administration of individual accounts.

AFOREs provide benefits if the programmed withdrawals option is chosen (see section Retirement benefits, Benefit structure / formula). Annuities are provided by insurance companies.

The Mexican Social Security Institute (*Instituto Mexicano del Seguro Social* - IMSS) collects contributions and transfers them to the AFORE chosen by the member.

Disability and survivor benefits are covered under a separate insurance policy. This insurance policy covers the risk that the deceased or disabled member's capital accumulated in the retirement, severance at advanced age and old-age insurance contributions' sub-accounts is not sufficient to purchase disability or survivor benefits of the legally prescribed amount.

Coverage

Covered population

Mandatory personal scheme: Membership is mandatory for private-sector employees who entered the labour force after the introduction of the system of mandatory private pension schemes in July 1997.

Private-sector employees who entered the labour force prior to that date had to choose between staying a member of the old publicly managed social security scheme and joining the new system.

Private-sector employees, who entered the labour force prior to that date may choose at retirement

whether they retire with the old or the new scheme, whichever will provide the highest benefit (see section Preservation, portability, transferability).

Membership is extended on a voluntary basis to the self-employed, federal state employees and the employees of certain public entities, states and municipalities.

Enforcement of affiliation

Mandatory personal scheme: Retirement Fund Administrators (AFOREs) must accept all applications for membership by eligible persons.

Employees who do not choose an AFORE are affiliated to one by the National Commission for the Retirement Savings System (CONSAR) to the AFORE with the lowest fees of all AFOREs.

Financing / Investment

Sources of funds

Mandatory personal scheme: The total employee, employer and government contribution to the retirement, severance in advanced age and old-age insurance contributions' sub-accounts is 6.5% of salary (of which 17.3% is paid by the employee, 79.2% by the employer and 3.5% by the government).

The government supplements this contribution with a flat-rate amount (the so-called social quota).

Member contributions

Mandatory personal scheme: 1.125% of salary (17.3% of the total mandatory contribution to the sub-account for retirement, severance at advanced age and old-age insurance), plus 0.625% of salary for disability and survivor insurance and an additional amount for administrative fees.

The minimum earnings for contribution purposes are equal to the regional minimum wage.

The maximum earnings for contribution purposes are equal to 25 times the minimum monthly wage in Mexico City which is equal to MXN 1,631.12 a month.

Self-employed persons contribute 6.275% of declared earnings for old-age benefits, plus 2.375% for disability and survivor benefits.

Declared earnings for contribution purposes are equal to the minimum monthly wage in Mexico City which is equal to MXN 1,631.12 a month.

Employer contributions

Mandatory personal scheme: 5.15% of salary (79.2% of the total mandatory contribution to the sub-account for retirement, severance in advanced age and old-age insurance), plus 1.75% of salary for disability and survivor insurance.

The minimum earnings for contribution purposes are equal to the regional minimum wage.

The maximum earnings for contribution purposes are equal to 25 times the minimum monthly wage in Mexico City equal to MXN 1,631.12 a month.

Contributions to the housing contributions' sub-account of 5% of salary are entirely paid by the employer. If the member is paying a loan from the National Housing Fund Institute (INFONAVIT), the contribution is not credited to the housing sub-account but is used to repay the loan.

Other sources of funds

Mandatory personal scheme: The government pays 0.225% of salary to the sub-account for retirement, severance at advanced age and old-age insurance.

The government also pays into the individual account a flat-rate amount (the so-called social quota) of MXN 2.74 for each day of work. The social quota is regularly adjusted to variations in the Consumer Price Index.

The government contributes 0.125% of the member's salary for disability and survivor insurance.

Methods of Financing

Mandatory personal scheme: Funded in individual accounts.

Retirement Fund Administrators (AFOREs) must finance disability and survivor benefits through

insurance contracts.

Asset Management

Mandatory personal scheme: The asset management is done through special investment vehicles called Investment Funds Specialized in Retirement Savings (SIEFORES). Each Retirement Fund Administrator (AFORE) must establish and manage two SIEFORES, SIEFORE Basica 1 (SB1) and SIEFORE Basica 2 (SB2), which offer different investment portfolios reflecting different levels of risk. Members up to age 56 may choose freely between SB1 and SB2, while members aged 56 or more must invest their resources in the SB1. AFORES may also establish SIEFORES for voluntary contributions.

SIEFORES do not have staff of their own but must be managed by a board of directors which includes the members of the board of directors of its managing AFORE.

Assets under management in SB1 must be invested in fixed income securities, of which up to 20% may be invested in foreign securities. In addition to assets allowed in SB1, up to 15% of assets in SB2 may be invested in principal protected equity securities.

SB1 and SB2 must maintain the following limits regarding fixed income securities:

- Up to 100% of assets under management in AAA rated securities;
- Up to 30% of assets under management in AA rated securities;
- Up to 5% of assets under management in A rated securities.

SB1 and SB2 must also have the following issuer limitations:

- Up to 5% of assets under management in an AAA rated issuer;
- Up to 3% of assets under management in an AA rated issuer;
- Up to 1% of assets under management in an A rated issuer.

SB1 and SB2 must comply with a maximum VAR (Value at Risk) of 0.65% of assets under management.

Each AFORE must have one custodian to take care of its international securities. Eligible custodians must be A-rated on the global scale. Custody costs will be paid by the AFORES.

Benefit provisions

Preservation, portability, transferability

Mandatory personal scheme: Employees are free to choose a Retirement Fund Administrator (AFORE) for membership without intervention of their employers.

Members may change their AFORE once a year provided that they have been members of their current AFORE for at least one year. Restrictions do not apply if:

- An AFORE changes its investment strategy;
- Employees wish to change to a cheaper AFORE;
- An AFORE increases its administrative fees;
- An AFORE merges with another AFORE.

AFORES must not charge members any fee for the transfer of capital.

The Mexican government has recognized the vested rights of “transitional workers”, i.e. private-sector employees who contributed to the former publicly managed old-age pension system and did not retire before July 1997. At retirement, transitional workers can choose between the higher of a benefit equal to that payable if they had stayed in the previous defined benefit system or the benefit from the mandatory private pension scheme.

Retirement Benefits

Benefit qualifying conditions

Mandatory personal scheme: The retirement age is age 65 for both men and women.

Members must have 1,250 weeks of contribution at retirement age in order to receive a regular benefit (programmed withdrawal or annuity - see section Benefit structure / formula). If members do not fulfil this requirement, they may continue contributing beyond age 65 in order to reach a contribution record

of 1,250 weeks.

Members may retire at any age if their accumulated balance in their individual accounts allows them to buy an annuity that is at least 30% higher than the minimum guaranteed pension.

Employees may retire at age 60 on the grounds of severance at advanced age if they have a contribution record of 1,250 weeks or more.

In both cases a life insurance premium for dependents must be paid.

The state guarantees a minimum pension benefit for retirees who have contributed for at least 1,250 weeks and whose accumulated capital is not sufficient to purchase an annuity of at least equal to the minimum pension.

Withdrawal of funds before retirement

Mandatory personal scheme: Partial withdrawals of capital from the individual account are possible in the cases of unemployment and marriage.

Unemployed members may withdraw the lower of the equivalent of 75 days of their salary or 10% of their account balance, starting on the 46th calendar day of unemployment. Members may make this type of withdrawal only once every 5 years.

Employees who marry can withdraw the equivalent of 30 times the daily minimum salary for Mexico City (equal to MXN 1,631.12 a month), provided that they have been, at the date of marriage, contributing for a minimum of 150 weeks to the retirement, severance at advanced age and old-age insurance sub-account. The member can only make this type of withdrawal once.

Benefit structure / formula

Mandatory personal scheme: Defined contribution.

Employees with 1,250 or more weeks of contribution and whose accumulated capital is sufficient to purchase an annuity of at least the minimum pension may at retirement choose between programmed withdrawals and a life annuity from an insurance company.

Under the programmed withdrawals option, the

AFORE continues to manage the individual account and pays a monthly pension that is charged against the total balance in the account until it is empty. To calculate the amount of the pension, the AFORE considers the employee's life expectancy and the expected rate of return.

If the annuity option is chosen, employees sign a contract with an insurance company of their choice. Employees may opt for a straight annuity or a joint survivor life annuity.

At retirement age, those employees with less than 1,250 weeks of contributions may either receive their accumulated capital as a lump sum, or continue contributing in order to reach the required 1,250 weeks.

The state guaranteed minimum pension benefit equals the minimum salary in July 1997 indexed to the Consumer Price Index (MXN 1,631.12 a month as of July 2005). The minimum pension is paid as gradual withdrawals from the individual account. When the individual account is exhausted the government assumes responsibility for the payment of the minimum pension for life.

If members do not have a loan outstanding from the Housing Institute, the capital in the housing sub-account is at retirement either added to the retirement, severance and old-age insurance sub-account, if members qualify for a regular benefit, or paid to the members as a lump sum, if members do not qualify for a regular benefit.

The Mexican government has recognized the vested rights of "transitional workers", i.e. private-sector employees who contributed to the former publicly managed old-age pension system and did not retire before July 1997. At retirement, transitional workers can choose between the higher of a benefit equal to that payable if they had stayed in the previous defined benefit system or the benefit from the mandatory private pension scheme.

Benefit adjustment

Mandatory personal scheme: Life annuities must be indexed to the Consumer Price Index (CPI), but gradual withdrawals are not indexed since they

are recalculated each year. The minimum pension guarantee is indexed to the CPI.

Survivors

Benefit qualifying conditions

Mandatory personal scheme: The member was a disability pensioner or had at least 150 weeks of contributions at the time of death. Survivor benefit resulting from the death of a member through a work accident or occupational disease is covered by a publicly managed social security scheme.

Eligible survivors are a widow(er) or cohabiting partner with children; a widow(er) without children who was married to the deceased for at least 6 months, subject to the deceased being younger than age 55 at the date of marriage; if the deceased was age 55 or older at the date of marriage or if the deceased was a pensioner, the marriage must have lasted at least 12 months. Other survivors are a cohabiting partner without children who lived with the deceased for at least 5 years; children up to age 16 (age 25 if a student); and parents in the absence of other eligible survivors. All eligible survivors must have been dependent on the deceased.

Benefit structure

Mandatory personal scheme: Survivor pensions amount to 90% of the disability pension paid or payable (see section Disability).

Each orphan younger than age 16 (age 25 if a student) receives a pension equal to 20% of the disability pension paid or payable or equal to 30% for a full orphan. When eligibility ceases, orphans receive a final benefit equal to 3 months of the deceased's pension.

In the absence of the above survivors, 20% of the disability pension paid or payable is paid for each eligible survivor.

A deceased member's capital accumulated in the retirement, severance at advanced age and old-age insurance contributions' sub-account must be used to purchase the survivor benefits. The risk that the capital in the sub-account is not sufficient to pay the

prescribed survivor benefits is covered by a separate insurance policy.

If the capital in a deceased member's individual account exceeds the amount necessary to purchase the prescribed survivor benefits, the survivors may withdraw the excess as a lump sum.

A lump sum equal to two times the insured's monthly salary or pension is paid in order to compensate for the funeral cost.

Benefit adjustment

Mandatory personal scheme: Survivor pensions are indexed to the Consumer Price Index.

Disability

Benefit qualifying conditions

Mandatory personal scheme: The disabled member has at least 150 weeks of contributions with a loss of at least 75% in normal earning capacity or at least 250 weeks of contributions with a loss of between 50% and 75% of earnings capacity. Disability caused by a work accident or occupational disease is covered by a publicly managed social security scheme.

The state guarantees a minimum disability pension benefit for retirees whose pension (based on the value of the accumulated capital plus accrued interest) is less than the minimum monthly pension of MXN 1,631.12.

Benefit structure

Mandatory personal scheme: The disability pension amounts to 35% of the member's average salary in the last 500 weeks of contribution plus family allowances form 10% to 15% of the disability pension.

A disabled member's capital accumulated in the retirement, severance at advanced age and old-age insurance contributions' sub-account must be used to purchase the disability benefit. The risk that the capital in the sub-account is not sufficient to pay the prescribed disability benefit is covered by a separate insurance policy.

If the capital in a disabled member's individual account exceeds the amount necessary to pay the

disability benefit, the member may withdraw the excess as a lump sum.

Benefit adjustment

Mandatory personal scheme: The disability pension is indexed to the Consumer Price Index.

Protection of Rights

Protection of Assets

Mandatory personal scheme: The assets in the individual accounts are completely separate from the assets of the Retirement Fund Administrators (AFOREs), since the Investment Funds Specialized in Retirement Savings (SIEFORES) are independent legal entities.

Assets of AFOREs and SIEFORES must be kept by a custodian.

Financial and Technical Requirements / Reporting

Mandatory personal scheme: Retirement Fund Administrators (AFOREs) must maintain a special reserve equal to the greater of UDI 8 million (*Investment Units*, approximately equal to USD 2.62 million) or 1.65 times the maximum VAR (Value at Risk) allowed to each of the SIEFORES Básicas (see section Asset Management). The special reserve for additional SIEFORES is 1% of assets under management up to a maximum of MXN 900,000. The paid-in capital and the special reserve must be invested in the SIEFORES managed by the AFORE.

AFOREs must provide the regulatory and supervisory authority, the National Commission for the Retirement Savings System (CONSAR), with different kinds of information on a daily basis and compliance is sanctioned one day after a fault is committed.

The compliance officer (see section on Institutional framework) must report monthly to the CONSAR on the evaluation of the process of self-regulation of the AFORE.

AFOREs must have their financial statements audited once a year by an independent auditor.

Audited financial statements must be disclosed to the CONSAR and be published in two national newspapers.

Whistleblowing

Mandatory personal scheme: Compliance officers must inform the National Commission for the Retirement Savings System (CONSAR) of any irregularities that they detect.

Standards for service providers

Mandatory personal scheme: Each Retirement Fund Administrator (AFORE) must have one custodian to take care of its international securities. Eligible custodians must be A-rated on the global scale and independent from the AFOREs. Custody costs are paid by the AFOREs.

There are no legal requirements for auditors except that they must be independent from the AFORE of which financial statement they audit.

Fees

Mandatory personal scheme: There are no statutory upper limits on fees charged by Retirement Fund Administrators (AFOREs) and other service providers. AFOREs charge an average 0.625% of earnings for disability and survivor benefits and an additional amount for administrative fees.

AFOREs must obtain approval from the governing board of the National Commission for Retirement Savings System (CONSAR) for the fees that they charge to their members. CONSAR must take current market conditions into account when determining whether certain fees are to be approved or not.

Winding up / Merger and acquisition

Mandatory personal scheme: Winding up procedures of a Retirement Fund Administrator (AFORE) are initiated based on a decision by the AFORE itself, or based on an order by the National Commission for the Retirement Savings System (CONSAR) if it withdraws the AFORE's authorization. When an AFORE is being wound up, it must liquidate the assets of its SIEFORES within

180 days and transfer them to the concentrated account managed by the Bank of Mexico. Within this period of 180 days, members of the AFORE that is being wound up must choose a new AFORE to which the Bank of Mexico must transfer their capital without delay.

Bankruptcy: Insolvency Insurance / Compensation Fund

Mandatory personal scheme: Insolvency insurance is not compulsory and no compensation fund exists.

Each Retirement Fund Administrator (AFORE) must maintain a special reserve that must be used to compensate members for the loss of assets due to a violation of the legally prescribed investment restrictions.

A minimum pension benefit is guaranteed by the state (see section Benefit structure / formula).

Disclosure of information / Individual action

Mandatory personal scheme: Investment Funds Specialized in Retirement Savings (SIEFORES) must distribute prospectuses containing information on their investment strategy. These documents must, before their distribution, be reviewed and approved by the National Commission for the Retirement Savings System (CONSAR).

AFORES must publish their financial statements quarterly and their audited financial statements annually in two national newspapers.

Each AFORE is required to establish a specialized unit to respond to questions and claims from members and employers. Claims not settled by this unit are presented in a system of conciliation that is run by the government through the National Commission for the Protection and Defence of Financial Service Users (*Comisión Nacional para la Defensa de los Usuarios de Servicios Financieros* - CONDUSEF). CONDUSEF was created in 1999 with the purpose of promoting, advising, protecting and defending the rights and interests of individuals that receive services from institutions belonging to the Mexican financial

system. To this end, CONDUSEF responds to and resolves any inquiries or claims that are presented to it, conducts the necessary conciliatory procedures and offers guidance and legal advice to members in any court action against AFORES and/or SIEFORES.

Other measures

Mandatory personal scheme: The degree of market share allowed to each AFORE is limited to 20% of the potential market. The percentage is determined by the number of retirement accounts managed by an AFORE, not by their size.

Tax Treatment

Taxation of member contributions

Mandatory personal scheme: Taxed.

Taxation of employer contributions

Mandatory personal scheme: Tax-deductible.

Taxation of investment income

Mandatory personal scheme: Tax-exempt.

Taxation of benefits

Mandatory personal scheme: Benefits are tax-exempt up to the limit of nine times the annual minimum wage. Benefits above this limit are taxed as income.

The minimum monthly wage in Mexico City is equal to MXN 1,631.12 a month.

Regulatory and Supervisory Authorities

National Commission for the Retirement Savings System (CONSAR): Regulates and supervises Retirement Fund Administrators (AFORES) and Investment Funds Specialized in Retirement Savings (SIEFORES). The Commission is part of the Ministry of Finance.

In order to enforce AFORES compliance with legal

requirements, CONSAR may:

- Carry out on-site inspections (inspectors must be provided with all records, books and other information they wish to obtain);
- Require AFOREs to provide all information necessary for effective supervision;
- Issue orders to AFOREs to cease violations of legal requirements;
- Withdraw the authorization of an AFORE (which implies that it must be wound up).

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If the CONSAR finds irregularities in the management of an AFORE that may endanger its financial safety and the interests of members, it may declare a case of general intervention and appoint a general administrator to take over the administration.

A Consultative and Prevention Committee (*Comité Consultivo y de Vigilancia*) including representatives of employees, employers and the government has been established to involve different interests in the regulation and supervision of mandatory private pension schemes and to improve the consultation between these groups. The Committee consists of the following 19 members:

- Six employee representatives;
- Six employer representatives;
- The President of CONSAR;
- One representative of the Finance Ministry;
- One representative of the Labour and Social Security Ministry;
- One representative of the Mexican Social Security Institute;
- One representative of the Mexican Central Bank;
- One representative of the Security and Social Service Institute of State Employees;
- One representative of the National Housing Fund Institute.

The presidency of the Committee is alternated by the employee or employer representative.

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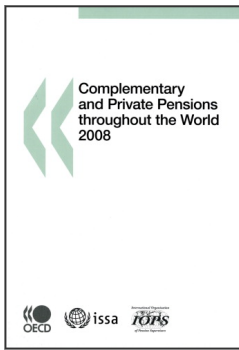
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From:

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): Mexico", in *Complementary and Private Pensions throughout the World 2008*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264048829-20-en>

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