International Update

Recent Developments in Foreign Public and Private Pensions

January 2018

Europe

Germany Introduces Defined Contribution Occupational Pension Plans

On January 1, Germany implemented the Law Strengthening Occupational Pensions (Betriebsrentenstärkungsgesetz, or BRSG), which allows companies bound by collective bargaining agreements (CBAs) to offer defined contribution (DC) pension plans to their employees. Previously, German law required pension plans to provide a guaranteed minimum retirement benefit, which effectively prohibited the use of DC plans because only defined benefit (DB) plans and hybrid plans provide such a guarantee, and many small- and medium-sized employers are unable to afford the high cost of financing DB pensions. Under the BRSG, employers can offer DC plans that lack a guaranteed minimum retirement benefit if employees agree as part of the collective bargaining process. The government anticipates that the new law will expand pension plan coverage and improve retirement savings. At present, around 60 percent of employees in Germany have access to an occupational pension; in many sectors, less than 30 percent of employees in companies with fewer than 10 employees are members of an occupational pension plan.

The key details of the BRSG include:

- *Plan design:* The design of each DC plan, including the rules and regulations for financing and implementing, will be determined through collective bargaining between employers (employer associations) and employees (trade unions). Employers not bound by a CBA will only be able to implement a DC plan by: (1) referring to a CBA in each individual employment contract; or (2) reaching an agreement with a local works council.
- *Automatic enrollment:* Companies may (if permitted by the specific CBA) automatically enroll their employees in an occupational pension plan, but employees must be able to opt out within a certain period.
- *Tax deductions:* Employers who contribute €240 (US$287.83) to €480 (US$575.66) a year on behalf of lower-income employees—those with gross monthly salaries up to €2,200 (US$2,638.46)—will receive a 30 percent tax deduction on these contributions. The tax deduction is only available for newly established pension plans (both DB and DC plans).
- *Tax-exempt contributions:* Contributions to an occupational pension plan of up to 8 percent of the social insurance contribution ceiling (up from 4 percent plus €1,800 [US$2,158.74] previously) are now exempt from taxation. (For 2018, the annual contribution ceiling is €78,000 [US$93,535.40] in the West and €69,600 [US$83,471.28] in the East.)

Germany's pension system consists of a first-pillar social insurance program, second-pillar occupational pensions, and third-pillar private pensions (including the government-subsidized Riester pension).

Sources: "German Company Pension Reform 2018," Aon Hewitt, no date; *Social Security Programs Throughout the World: Europe, 2016*, U.S. Social Security Administration, September 2016; "Aba: DC and Auto-Enrolment, German Style," *IPE Magazine*, April 2017; "New Regulations on Occupational Pensions in Germany," European Social Policy Network Flash Report, July 2017; "Germany," IBIS eVisor News, October 31, 2017; "Update on German Pension Law – Germany Introduces Defined Contribution ("DC") Plans," Willkie Farr & Gallagher LLP, November 16, 2017; "Betriebsrentenstärkungsgesetz: Sozialpartnermodell Bringt bAV Ohne Garantien ab 2018," Haufe.de, January 9, 2018.

Norway Implements New Voluntary Pension Savings Program

On November 1, Norway implemented a voluntary tax-favored individual pension savings (IPS) program that replaces a similar program introduced in 2008. Under the new IPS program, participants can contribute up to 40,000 kroner (US$4,875) per year and receive an income tax deduction (worth up to 9,200 kroner [US$1,121] in 2018). In addition, investment returns are exempt from capital gains taxes and withdrawals from the account are taxed as ordinary income. Under the previous IPS program, participants could contribute up to 15,000 kroner (US$1,828) of after-tax income per year and benefits were taxed at a higher rate as pension income. According to the government, the new program aims to stimulate domestic savings and help individuals supplement their social security and occupational retirement benefits.

Participation in the IPS program is open to individuals aged 18 to 75 who enter into a contractual arrangement with a government-approved financial institution, such as a bank, life insurance company, investment firm, or mutual fund management company. The contract must specify administrative or associated fees and who (the participant or the financial institution) selects the assets included in the IPS portfolio. The participant chooses how much and when to contribute. If the participant assumes responsibility for portfolio selection, the financial institution must provide information about the risks associated with different investment products and financial advice about de-risking strategies as the client nears retirement. A financial institution acting as portfolio manager may guarantee an investment return, but it must specify the amount guaranteed and return any excess above that guarantee to the IPS account. There are no restrictions on the financial products or investment strategies financial institutions can offer and IPS participants may switch their accounts to another financial institution at any time.

The IPS benefit must be paid in installments for at least 10 years from the date of retirement (no earlier than age 62) or until the participant reaches age 80, whichever occurs later. A longer payout period is allowed provided it does not result in an annual benefit less than 20 percent of the annual base amount used in social security calculations—currently 93,634 kroner (US$11,412). A shorter payout period is also allowed for small benefit amounts. Participants may terminate the agreement at any point, receiving a certificate from the financial institution that entitles them to a deferred pension or an option to transfer the account balance to another institution. If an IPS participant dies, the financial institution distributes the account balance as follows:

- Children under age 21 receive an annual allowance equivalent to the base amount until they reach 21.
- A spouse or partner receives any remainder as a pension over 10 years.
- The estate receives a lump sum of the remainder in the absence of any eligible children or a spouse or partner and divides it among the participant's heirs.

In addition to voluntary savings programs (such as IPS), Norway's retirement system includes mandatory occupational and public tiers. A new old-age pension system (introduced in 2011) is replacing the old universal pension with a guaranteed minimum benefit and the previous earnings-related pension with a notional defined contribution scheme. The new system covers individuals born since 1963, while those born before 1954 remain under the old system. A combination of old and new systems covers individuals born from 1954 through 1962.

Sources: "What Is New IPS?" Norwegian Consumer Council, https://www.finansportalen.no/pensjon/ny-ips/, no date; *Social Security Programs Throughout the World: Europe, 2016*, U.S. Social Security Administration, September 2016; "Funds Boost from Tax Changes to Norwegian Pension Savings," Investment Europe, November 1, 2017; "Norway," IBIS eVisor News, December 19, 2017.

The Americas

Argentina Implements Social Security Reforms

On December 29, Argentina implemented reforms to the country's social security system that include extending employment protections for older private-sector workers, changing the minimum benefit for certain contributory old-age pensions, modifying how periodic cost-of-living adjustments are made, and paying some social security beneficiaries a one-time bonus. The government approved the reforms in December as part of an effort to reduce the country's fiscal deficit (estimated to be 4.2 percent of gross domestic product in 2017). Although the reforms will provide some of Argentina's 17.4 million old-age pensioners and other social security beneficiaries with additional income, they are expected to reduce net expenditures on social security benefits by 60 billion to 100 billion pesos (US$3.2 billion to $5.4 billion) in 2018.

The key provisions of the reforms include:

- *Extending employment protections for some individuals who delay claiming an old-age pension.* Effective December 29, private-sector employees who reach the normal retirement age (65 for men or 60 for women) can continue to work until age 70 under standard employment contracts. Previously, employees could only work beyond age 65 (for men and women) if they had special agreements with their employers, thus retirement at age 65 was compulsory for most employees.

- *Changing the minimum contributory old-age pension for individuals with at least 30 years of contributions.* Effective January 1, the minimum contributory pension for these individuals is 82 percent of the legal minimum wage (currently 9,500 pesos [US$510.72] a month) or the legal minimum pension (currently 7,246 pesos [US$389.54] a month), whichever is greater. For individuals with less than 30 years of contributions, the minimum contributory pension continues to be the legal minimum old-age pension. (Previously, the legal minimum wage was not considered in determining the minimum contributory pension for any individuals.)
- *Modifying the frequency and calculation of cost-of-living adjustments for old-age pensions.* Effective March 1, the adjustments will be made quarterly (March, June, September, and December) instead of semiannually (March and September). Moreover, adjustments will be equal to 70 percent of the percentage change in the national consumer price index and 30 percent of the percentage change in the average national wage for formal-sector workers. Previously, adjustments were made according to changes in social security contribution receipts and the average national wage for formal-sector workers.
- *Paying a one-time bonus in March to pensioners with monthly pensions (after the March cost-of-living adjustment) up to 10,000 pesos (US$537.60).* The amount of the one-time bonus will vary according to contribution history and pension type: 750 pesos (US$40.32) will be paid to pensioners with at least 30 years of contributions; and 375 pesos (US$20.16) will be paid to pensioners with less than 30 years of contributions, to those receiving both an old-age and a disability pension, and to those receiving a noncontributory old-age pension.

Argentina's old-age pension system consists of a contributory (social insurance) pension and a noncontributory pension (Pensión Universal Adulto Mayor). The contributory pension has three components: a basic flat-rate pension, a compensatory pension based on years of contributions before July 1, 1994, and a supplemental pension based on years of contributions since July 1, 1994. To qualify for a full contributory pension, an individual must have reached age 65 (men) or 60 (women) and have at least 30 years of contributions. An individual with less than 30 years of contributions can qualify for an "advanced age" partial pension (equal to 70 percent of the basic pension plus any compensatory and supplementary pensions) if he or she has at least 10 years of contributions, including 5 years in the 8 years before retirement. Resident citizens of Argentina (and certain resident naturalized citizens and foreign nationals) aged 65 or older who do not qualify for any other pension can receive the noncontributory pension, which pays 70 percent of the legal minimum old-age pension.

Sources: Ley 24.241, September 1993; *Social Security Programs Throughout the World: The Americas, 2015*, U.S. Social Security Administration, March 2016; Ley 27.426, December 2017; Resolución 25-E/2017, December 2017; "Argentina Passes Controversial Economic Reform", CNNMoney, December 19, 2017; "Las claves de la controvertida reforma de pensiones de Macri en Argentina," El Mercurio On-Line (EMOL), December 19, 2017;"En la última sesión del año, Diputados aprobó el presupuesto 2018 y el Consenso Fiscal," *La Nacion*, December 22, 2017; "Cómo se aplicará la nueva movilidad para cada franja de jubilados y en la AUH," *Clarin*, January 9, 2018.

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