

IOPS Working Papers on Effective Pensions Supervision, No.22

# Role of Pension Supervisory Authorities in Automatic Enrolment

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## **IOPS WORKING PAPERS ON EFFECTIVE PENSIONS SUPERVISION**

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## ROLE OF PENSION SUPERVISORY AUTHORITIES IN AUTOMATIC ENROLMENT

### ABSTRACT

This paper reviews the experiences of supervisory authorities in jurisdictions where automatic enrolment programmes were implemented at the national level: Italy, New Zealand and the United Kingdom, and in other jurisdictions where automatic enrolment applied to specific subsets of workers or plans: in Chile for self-employed workers for a limited period of time and the United States for certain occupational pension plans.

The paper identifies the principle areas of involvement of pension supervisory authorities and the main directions and challenges for the supervisory oversight of automatic enrolment programmes.

The paper finds that pension supervisory authorities play an important role in automatic enrolment. Pension supervisory authorities are involved in designing automatic enrolment, including their default arrangements. They also contribute to developing and strengthening the legal framework to better protect the interests of the growing number of participants, and are involved in the setting of administrative processes for automatic enrolment and related procedures. Their central role consists of overseeing and enforcing compliance with the automatic enrolment legal provisions. The pension supervisory authorities also participate in the development of communication campaigns to promote understanding about automatic enrolment and foster the compliance.

**Keywords:** automatic enrolment, supervision, pension policy, pension coverage, incentives for saving, private pensions

**JEL codes:** D-14, G-23, G-28

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## **ROLE OF PENSION SUPERVISORY AUTHORITIES IN AUTOMATIC ENROLMENT**

### **Executive summary**

Governments around the world are working on strategies to increase participation in private pension plans in order to complement the resources coming from public pensions, and to achieve greater pension adequacy in retirement. The automatic enrolment of workers into private pension funds can be regarded as an effective way to improve coverage and boost retirement savings in non-mandatory systems.

As overall pension scheme participation levels increase due to automatic enrolment, new or, additional responsibilities are placed on pension regulatory and supervisory authorities to protect the interests of the growing number of participants, and to ensure that the pension schemes used for automatic enrolment are well governed and managed in such a way as to secure adequate retirement income with low charges to the members.

In view of the significant number of new participants joining private pension arrangements in the countries where automatic enrolment has been introduced, the governments in these countries have strengthened the regulatory requirements, and are working to improve the operating standards of pension schemes and their managers (trustees and fund managers) at the industry level. Governments have also introduced legal provisions specific to automatic enrolment, including default options. This recognises the need to adjust supervisory oversight in a manner that fits the specific needs of automatic enrolment systems.

Pension supervisory authorities play an important role in the process of implementing automatic enrolment. In a number of countries, they have contributed to the development of primary and secondary legislation, as well as reviewing and reinforcing the legislative provisions governing automatic enrolment, including the default options. Considering that the majority of automatically enrolled participants usually remain in the default schemes or default investment funds that are proposed to them, it is critical that public authorities give careful consideration to the design and structure of the default arrangements available for automatic enrolment.

Pension supervisory authorities may also be involved in setting up proper administrative procedures and requirements for automatic enrolment such as enrolment of members, payment, and collection of contributions. They can possibly use the existing systems and structures to make the administration of automatic enrolment programmes as simple and ‘automatic’ as possible (e.g. tax systems). Efficient information sharing between the various public agencies participating in the administrative processes related to automatic enrolment is considered to be of critical importance. Developing an information technology system, and ensuring its proper functioning to allow all public authorities involved in the automatic enrolment process to report, exchange information, and compute necessary data efficiently, is identified as one of the challenges.

Where automatic enrolment has been introduced, the central role of the pension supervisory authorities consists of overseeing and enforcing compliance with the automatic enrolment legal provisions. Supervisory approaches to automatic enrolment programmes are generally similar to those applied in traditional mandatory and voluntary pension systems, and are part of the regime that supervises other private pension arrangements, although targeted supervisory approaches in relation to automatic enrolment programs can be distinguished. This paper focuses on identifying the supervisory activities, and techniques used to oversee automatic enrolment programmes. These supervisory activities are directed mainly towards the employers and entities (e.g. trustees, fund managers, financial advisors, pension service providers)

involved in the distribution, management and administration of automatic enrolment pension schemes. The focus is generally to ensure compliance with the automatic enrolment provisions, to monitor and stop any business practices not suited to automatic enrolment, and to work with small and micro businesses to ensure compliance with the rules of the automatic enrolment programmes.

Communication and information campaigns play a determinant role in the successful development of automatic enrolment programmes. Supervisory authorities, together with other public agencies and stakeholders, participate in the development of communication campaigns and promote understanding in relation to automatic enrolment. In a number of countries, information and engagement campaigns are regarded as a proactive supervisory strategy to help employers understand their duties and rights and to comply with the legal requirements of automatic enrolment. Special focus should be given to communicating and engaging with employers/employees with no, or little, pension experience.

## ROLE OF PENSION SUPERVISORY AUTHORITIES IN AUTOMATIC ENROLMENT

### I Introduction

Governments around the world are working on strategies to expand private pension systems to increase retirement savings. Retirement income coming from private sources is considered essential to complement public pensions and achieve greater pension adequacy. Increasing coverage in private pensions is particularly important in countries where mandatory participation has, for various reasons, not been adopted.

Automatic enrolment – i.e. the automatic registration or enrolment of workers into a private pension plan, with the option then given to leave (opt out of) the scheme – is seen as a means of increasing participation in private pension systems where contribution and/or enrolment are not mandatory. Automatic enrolment may help overcome the behavioural barriers to making long-term retirement savings and the low general financial knowledge among the population. The idea, driven by the findings of ‘behavioural economics’, that individuals tend to be passive with regard to finance issues in general, and pensions in particular, is to rely on people’s inertia. This characteristic is used in automatic enrolment – people no longer have to actively seek out information and take steps to join a pension plan. Also the expectation is that inertia will result in most participants remaining automatically enrolled. It is a form of ‘paternalism’, or, as Rinaldi (2011) puts it: ‘Examining people’s inertia and overcoming procrastination, automatic enrolment is seen as a nice middle course between fully voluntary arrangements, where individuals are often not able to take appropriate, informed decision, and compulsory mechanisms, which in principle are distortive of individual’s preferences and may be politically unfeasible.’

While a high level of pension coverage alone does not necessarily mean adequate retirement income (broad coverage needs to be combined with high enough contribution levels and good investment performance), it can be seen as a necessary condition for reaching this goal.<sup>1</sup>

This paper looks to the experiences of supervisory authorities in the jurisdictions where automatic enrolment programmes were implemented at the national level, such as in Italy, New Zealand, and the United Kingdom (UK), and in Chile where automatic enrolment was introduced for a limited period of time<sup>2</sup> (three years) for self-employed workers in a certain tax category,<sup>3</sup> in the context of mandatory participation of the self-employed in the pension system. This paper also analyses automatic enrolment into certain occupational pension plans in the United States (US), in particular 401(k) plans. The experience of Canada is not reflected in this report.<sup>4</sup>

In countries that have introduced automatic enrolment, it is noted that coverage rates increased in general; however, reform outcomes differ by country. In 2006, before KiwiSaver was introduced in New Zealand, only about 20% of the working age population was saving for retirement, beyond that required as public pension contributions. Since the KiwiSaver scheme was implemented in 2007, remarkable progress

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<sup>1</sup> OECD Pensions Outlook 2012, Chapter 4.

<sup>2</sup> In the case of Chile, it is the automatic enrolment programme that will become mandatory in 2015 and will become effective with the tax declaration process of the year 2016.

<sup>3</sup> Self-employed workers earning income, subject to Article 42 N°2 of the Income Tax Law. For more details, see <http://www.sii.cl/pagina/jurisprudencia/legislacion/basica/basica.htm> under the link ‘Ley sobre impuesto a la Renta’.

<sup>4</sup> Recently in Canada, the federal Pooled Registered Pension Plans (PRPPs) legislation was introduced allowing for setting up new, low-cost, pension plans accessible for employers and the self-employed. If an employer joins a PRPP, employees will be automatically enrolled in the plan having an option to opt out in 60 days.

in membership has been achieved, with about 64.4%<sup>5</sup> of the population under 65 being covered in 2013. This is the highest coverage rate among voluntary pension systems. In Italy, on the other hand, after the enactment of the reform in 2007, there was a more moderate increase in the coverage rate, from 8.5% in 2006 to 15.9% in 2013.<sup>6</sup> In the United States, the 2006 Pension Protection Act favoured adoption of automatic enrolment in certain types of pension plans by employers, with the coverage rate in voluntary occupation pension plans reaching 41.6%<sup>7</sup> of the working population in 2010. According to the data published by the US Government Accountability Office (GAO), some plans with automatic enrolment features saw participation rates increase to as high as 95%, and this appeared to persist over time (GAO, October 2009).<sup>8</sup>

Two other countries introduced automatic enrolment programmes in 2012: for self-employed workers (Chile), and at the national level for all employees (UK). In Chile, before the 2008 pension reform, coverage of the self-employed was minimal – 4% in the period between March 2001 and March 2011. It is estimated that in the first year of the automatic enrolment programme, 32% of eligible self-employed workers<sup>9</sup> contributed to the pension system. The rest of the self-employed decided to opt out from the system.<sup>10</sup> Similarly, in the UK the relatively low universal state pension and the falling number of members<sup>11</sup> in occupational pension schemes (both provided by public and private employers) over the last four decades were the main drivers behind the introduction of the automatic enrolment programme. In April 2013, about 50% of employees were members of workplace pension schemes in the UK.<sup>12</sup> As of July 2014, over 4 million people from over 21,000 employers had been automatically enrolled into pension schemes in the UK,<sup>13</sup> with opt-out rates below 10%.

While country evidence suggests that automatic enrolment policies are quite effective in increasing membership in retirement savings plans, the impact on overall savings for retirement may still be seen as insufficient. These policies seem to be less effective at motivating individuals to make well-planned decisions about how much to save for retirement and/or on how to invest their savings. This is not surprising, bearing in mind that automatic enrolment hinges upon the concept of procrastination and inertia. In order to encourage participation and additional savings, the government and policymakers may need to consider further policy options and incentives that can be used in conjunction with automatic enrolment.<sup>14</sup> These may include measures such as the provision of flat government subsidies, financial incentives through tax deductions and credits; a choice of contribution levels above the mandated default levels; a choice of providers and/or investment options; matching contributions by employer or the

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<sup>5</sup> OECD Global Pension Statistics. <http://www.oecd.org/finance/private-pensions/globalpensionstatistics.htm>

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> US Government Accountability Office (GAO), Automatic Enrolment Shows Promise for Some Workers, but Proposals to Broaden Retirement Savings for Other Workers Could Face Challenges, 2009.

<sup>9</sup> Those who receive taxable income under Article 42, N°2 of the Chilean Income Tax Law.

<sup>10</sup> Superintendence of Pensions of Chile, 2010.

<sup>11</sup> The Office for National Statistics (ONS) reported that the number of active members saving in any type of pension arrangement (public or private) totalled 8.2 million in 2011, lower than in any year since 1956. The number of active scheme members was at its peak in 1967 with 12.2 million participating workers, and stayed above 10 million until 2000, and since then has steadily decreased.

<sup>12</sup> ONS (2014), <http://www.ons.gov.uk/ons/index.html>.

<sup>13</sup> <http://www.thepensionsregulator.gov.uk/docs/automatic-enrolment-monthly-registration-report.pdf>.

<sup>14</sup> See: Antolin and Ponton (2007), Lewis and Messy (2012), Hinz *et al.* (eds.) (2012), OECD (2012).

government (or both); and auto-escalation of contributions.<sup>15</sup> In New Zealand, the first two measures noted were considered as significant determinants in the success of the KiwiSaver programme (although coming at a fiscal cost to the government).<sup>16</sup>

The success of automatic enrolment is also closely linked with the ‘optimal’ design features of the programme. Such features would include arrangements that are of high quality (in terms of management, behaviour, control processes for scheme providers), cost effective, and reasonably simple to use. Particularly important are the arrangements related to the default parameters such as contribution rate and asset allocation. Confidence in pensions and their regulatory regimes, efficient administrative procedures, and robust supervision to oversee compliance with automatic enrolment legal provisions are also critical components for the success of automatic enrolment. Another key factor impacting on the positive outcome of automatic enrolment relates to communication and education efforts.

Pension supervisory authorities play an important role in automatic enrolment. They may be involved in designing automatic enrolment programmes, including default arrangements. Since most employees enrolled in pension schemes/funds remain in them, it is critical that public authorities give careful consideration to the design and structure of default plans and funds available for automatic enrolment. As automatic enrolment programmes develop, it is important that public authorities, including pension supervisors, take the necessary measures to improve their features either through legislative changes and/or by encouraging higher standards/enhancing regulatory expectations on scheme managers (trustees or fund managers) with respect to standards of governance and management of pension schemes. Pension supervisory authorities also need to play a key role in setting proper administrative requirements for automatic enrolment programmes and in overseeing them through monitoring and enforcing compliance. Putting in place communication campaigns is essential to promote understanding of employers and scheme managers in relation to their roles, responsibilities, to ensure that employers and scheme managers fulfil their obligations.

This paper reviews the main areas of involvement of pension supervisory authorities in the preparatory as well as implementation stages, and identifies the main directions of the supervisory oversight of automatic enrolment programmes. Findings from this paper may be of interest to supervisory authorities in other jurisdictions, allowing them to learn from the experiences of Chile, Italy, New Zealand, the United Kingdom, and the United States.

The paper is structured as follows. This introduction is followed by the main section, which attempts to identify, drawing on the country experiences, areas for supervisory involvement, and the challenges encountered when automatic enrolment programmes are being prepared and implemented. The final section of the paper contains some conclusions and lessons learned from the experiences of the five jurisdictions covered. Annex 1 provides a table summarising the key features of automatic enrolment programmes in those jurisdictions. The country studies are presented in Annex 2.

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<sup>15</sup> *The Save More Tomorrow* concept was created by Thaler and Bernatzi (2004). This scheme, where level of pension contribution is increasing as employees’ pay rises, has achieved considerable results for some companies’ pension schemes in the United States. There is a currently a debate in the UK as to whether to include similar arrangements as a part of future pension policy developments.

<sup>16</sup> Inland Revenue, Tax Policy, Making KiwiSaver more cost-effective, 2011, <http://taxpolicy.ird.govt.nz/publications/2011-ris-arbm-bill/making-kiwisaver-more-cost-effective>.

## **II The main areas for pension supervisory authorities' involvement with respect to automatic enrolment programmes**

Drawing on the experiences of the countries covered by the report, a non-exhaustive list of areas for supervisory involvement includes:

### *1. Legislative and design features*

- Developing new or modifying existing rules and preparing enabling secondary legislation in relation to automatic enrolment.
- Reinforcing regulatory requirements and improving the features of automatic enrolment schemes, including default schemes/investment options, maximising their attractiveness to members and employers as high-quality, cost-effective, and reasonably simple (easy to join and stay in) arrangements.

### *2. Administrative requirements*

- Setting proper administrative processes and procedures for automatic enrolment programmes.
- Ensuring efficient collaboration and information sharing between the various public agencies involved in the administrative processes related to automatic enrolment and addressing the IT challenges involved.

### *3. Supervisory approaches*

- Gaining the necessary legal powers to enforce compliance with automatic enrolment legal requirements.
- Setting up priority areas for monitoring, and enforcing compliance of employers and pension service providers with regard to their automatic enrolment obligations.

### *4. Communication and education*

- Putting in place efficient communication and education policies to accompany the launch and implementation of automatic enrolment.
- Using education as a supervisory tool directed at fostering a compliance culture and high standards of conduct of pension market participants.
- Assessing the knowledge and preparedness of employers and pension service providers<sup>17</sup> in relation to their automatic enrolment responsibilities.

As follows from the list above, pension supervisory authorities have a number of specific responsibilities in the legislative, administrative, and communication domains when automatic enrolment programmes are introduced and implemented. With respect to supervisory tasks, the overview of countries' experiences shows that they are generally similar to those applied to private pension schemes in traditional

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<sup>17</sup> Pension service providers can be defined here as entities providing private pension products or services (IOPS Good Practices for Governance of Pension Supervisory Authorities, 2013; <http://www.iopsweb.org/principlesandguidelines>).

mandatory or voluntary pension systems. Nevertheless, the number of new or expected pension scheme participants suggests the need for governments to introduce more comprehensive regulatory requirements and place additional responsibilities on employers and pension service providers. Additional stringent requirements were introduced in relation to, for example, licensing/registration, governance practices, charges, and information disclosure, with a special focus on fees and costs charged by providers. These in turn led to targeted supervisory approaches, and an intensive supervisory oversight that fits the specific needs of a system with automatic enrolment.<sup>18</sup> Automatic enrolment also creates much higher reputational risk to the designers and supervisors of the system than in the context of purely voluntary pension savings schemes. This is because a large number of people are encouraged to save for retirement, and a vast majority of them accepts the default saving parameters, such as the contribution saving rate or investment policy. In case of any failure (be it bankruptcy of the scheme, low investment returns, or inadequate retirement income), they might put the blame on those that ‘nudged’ them into the system.

### ***II.1 Legislative and design features of automatic enrolment programmes***

#### *(i) Developing new or modifying existing rules and preparing secondary legislation in relation to automatic enrolment*

Pension supervisory authorities have an important, sometimes a leading role, together with other relevant public authorities, in the development of the new legislation and in enabling the secondary regulations required to set up a legal framework for automatic enrolment programmes. During the implementation stage, the pension supervisory authorities are also involved in amending the existing legislation or in providing their technical opinion on legislative developments, and could be required to propose additional regulations in relation to automatic enrolment.

In Chile, in the context of automatic enrolment for self-employed workers in the pension system established by the Pension Reform of 2008, the Superintendence of Pensions has supported development of secondary legislation for the implementation of the automatic enrolment programme for the self-employed. The Superintendence of Pensions had to both modify existing legislation and develop new rules in consultation with other public agencies.<sup>19</sup>

In particular, existing legislation had to be completed, and new legal provisions needed to be developed in relation to the self-employed affiliation procedure,<sup>20</sup> as well as processes detailing how members’ contributions are collected and what legal actions would be taken when insufficient contributions being withheld by the Inland Revenue Service (SII). One of the most important pieces of the secondary legislation related to the form and timing of the exchange of information between institutions

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<sup>18</sup> For example, Pension Regulator in the UK has to register an increased number of pension schemes and to monitor whether the employers automatically re-enrol every three years all eligible workers who opted out of the scheme and did not join another one. In New Zealand, an increased level of consumer protection meant that the supervisor needed to license the trustees and register the fund managers. Automatic enrolment in New Zealand, Italy, the UK, and the US resulted in the introduction of higher information disclosure requirements with the main focus on fees and costs. Also in New Zealand and the UK, new governance requirements and standards were introduced (including for entities participating in the automatic enrolment), requiring supervisors to focus on these issues (to ensure compliance with regulation and standards) and in particular on the governance of default investment funds.

<sup>19</sup> Inland Revenue Service (SII) and the General Treasury of the Republic (TGR), abbreviations are in Spanish.

<sup>20</sup> Affiliation procedure (e.g. enrolment with the selected Pension Fund Administrator (AFP)). The affiliation date is a key process in the Chilean system because it affects aspects such as the allocation of new affiliates to the AFP winner of the auction process, and the base earnings used in the computation of some eligibility rules and benefits.

involved in the automatic enrolment process and those responsible for determining, collecting, and transferring contributions – the Pension Fund Administrators (AFPs), the Inland Revenue Service (SII), and the General Treasury of Republic (TGR).

In Italy, to ensure the effective implementation of the automatic enrolment programme, the Pension Funds Supervision Commission (COVIP) had to redraft all secondary regulations to make them consistent with the new law on automatic enrolment. Special attention was given to the regulation governing information disclosure by private pension funds to actual and future members in order to facilitate comparisons between schemes and foster competition. Although not directly linked to automatic enrolment, this measure was aimed at facilitating access to comparative information and helping members make informed choices about their retirement savings/income (including participation in the automatic enrolment program). In 2008, a detailed regulation relating to supplementary pensions expectations was issued by COVIP requiring pension funds to provide pension fund members with a projection of future benefits according to standardised assumptions developed by the pension supervisory authority. As a part of these efforts, a new comprehensive information document was set up for all pension schemes; and a synthetic cost indicator (SCI) was to be produced by all pension plans to allow new members to better understand the impact of costs on their pension benefits. Attention was also given to the introduction, in each of the pension schemes that were willing to qualify for receiving new members through the automatic enrolment process, of the guaranteed investment option that, by law, was set to receive the contributions of these new members.

In the UK, primary legislation, e.g. the Pensions Bill, and secondary legislation such as regulations, were drafted by the Department for Work and Pensions<sup>21</sup> (DWP) and were subject to the Parliamentary approval process. The Pensions Regulator's (TPR) role was to give technical advice to the Department whilst legislation was drafted. The detailed guidance produced by TPR was non-statutory.

A year after implementation, in 2013, the DWP held consultations on technical changes to the automatic enrolment rules to make the process of automatic enrolment simpler.<sup>22</sup> As a result of the consultation process, the automatic enrolment regulations were adopted on 1 November 2013 (and some later in April 2014). The changes concerned aspects such as the use of alternative definitions of the pay reference periods when assessing jobholder status and scheme quality, extending the automatic enrolment-joining window, and clarifying opt-out provisions. It is also expected that the new regulations will remove automatic enrolment obligations for certain employers under specified circumstances, including in relation to certain categories of employees.

Introduced in 1998 in the United States, the automatic enrolment programme for certain occupational pension plans (401k plans) started to be widely adopted by employers since the enactment of the Pension Protection Act in 2006. The law brought major improvements to the retirement savings environment by providing employers with incentives to automatically enrol their employees into a retirement pension scheme. The Department of Labour (DOL) developed a Qualified Default Investment Alternatives (QDIAs) regulation that provided guidance on selecting prudent default investments (for more details see section below and the US case study in the Annex 2).

(ii) *Reinforcing the regulatory requirements and improving the features of automatic enrolment schemes, including default arrangements (default pension schemes and default investment options)*

In view of the increased participation in private pension systems due to automatic enrolment, public authorities have undertaken measures to strengthen the regulatory requirements and are working to

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<sup>21</sup> <http://www.dwp.gov.uk>.

<sup>22</sup> <http://www.dwp.gov.uk/consultations/2013/ae-tech-changes-draft-regs.shtml>.

improve behaviour and management standards at the industry level, and have been amending specific legislative and regulatory requirements in relation to automatic enrolment programmes, including the default option(s). In general, these efforts concern strengthened licensing requirements, better disclosure, and reporting rules on charges and improved governance standards.

In New Zealand, the government authorities, including the Financial Market Authority (FMA) – the main supervisory authority of the KiwiSaver schemes – adopted a number of measures to reinforce the regulatory regime for retail KiwiSaver schemes. These measures were directed specifically to enhance the governance, management, and disclosure requirements of retail KiwiSaver schemes as well as aiming at greater efficiency and more competition. Ensuring that KiwiSaver schemes are run in members’ best interests was also targeted. New requirements made the supervisory authority responsible for ensuring compliance with the new rules, resulting in a more intense supervision over pension service providers involved in automatic enrolment arrangements.

The KiwiSaver Amendment Act 2011 set out specific governance requirements to non-restricted KiwiSaver schemes.<sup>23</sup> The retail KiwiSaver schemes were required to restructure the governance of their schemes, with the fund manager becoming the issuer of membership interests and being primarily responsible for the accuracy of the scheme prospectus, investment statement, and advertisements. The changes also made licensed external trustees formally responsible for the supervision of fund managers, requiring that they control compliance with trust deeds and other responsibilities. In addition to the new governance requirements, the new KiwiSaver Periodic Reporting Regulations were introduced on 1 April 2013 to further improve the visibility and transparency of information regarding KiwiSaver schemes and allow an easier comparison of the different KiwiSaver schemes.

In the UK, projecting that approximately 10 million workers will join workplace pension schemes in the years to come, as a result of introducing automatic enrolment, the UK government’s focus has been on ensuring that pension schemes are well governed and secure good-quality outcomes, with low charges to the members. Important reform initiatives were elaborated with regard to governance, charges (introduction of a charge cap on default funds in defined contribution (DC) qualifying schemes), and transparency in the DC pension sector. The new governance standards, applied to all DC workplace schemes, and the new disclosure rules were introduced so that schemes are well run following overarching minimum quality standards, with members/beneficiaries’ interests in mind and allowing full transparency and comparability of costs and charges in workplace pensions.<sup>24</sup> From April 2015, there will be a requirement for contract-based pension schemes to operate Independent Governance Committees (IGCs) to assess and report whether or not a scheme meets quality standards, with the same requirement also assigned to trustees. Boards of trustees and the IGCs will also have a duty to report on costs and charges, whilst new requirements regarding the disclosure of administrative charges and transactions costs are under preparation.

In line with government efforts to improve the quality of DC schemes (including those available for automatic enrolment), TPR has developed quality standards for DC schemes and has also emphasised key elements for employer’s attention when selecting a ‘good’ scheme for automatic enrolment. TPR has

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<sup>23</sup> The changes do not apply to non-retail Kiwi-saver schemes, i.e. employer-based and some vocational based schemes – or non-KiwiSaver superannuation schemes. Non-retail KiwiSaver schemes represent only around 2% of the market.

<sup>24</sup> DWP, Better Workplace pensions: Further measures for savers, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/298436/better-workplace-pensions-march-2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/298436/better-workplace-pensions-march-2014.pdf)

issued the Code of Practice<sup>25</sup> that sets out the standards for a good DC scheme and identifies quality features, covering scheme activities, behaviours, and controlling processes that are likely to deliver good outcomes to members.

**Box 1. Key elements, identified by the UK Pension Regulator for employer attention when selecting a 'good' pension scheme for automatic enrolment**

- Reasonable and fair costs and charges.
- Clear division of responsibilities for different service providers of the scheme, including the role of the employer.
- Suitability of the scheme manager (trustee or product provider) – evidence proving sufficient expertise, knowledge, and resources to ensure compliance with legal requirements, and that the scheme is well run and benefits are properly protected.
- Management of the scheme in members best interests, and there is disclosure of any conflict of interest.
- Protection and compensation mechanisms are available, including any limitations of these.
- Provision and regular monitoring (for appropriateness) of the default investment fund and other investment options tailored as close as possible to members' level of understanding.
- Flexible contribution structures for members and/or employers above the minimum legal requirements.
- Accurate and comprehensive scheme processes and record keeping.
- Designated point of contact for any members' queries.
- Securing (and encouraging) the possibility for members approaching retirement to shop around to obtain greatest value for their retirement income.

TPR is also working to review the framework for contributions to decide on the most efficient approach to achieve good outcomes for members. Consideration is currently being given to introducing an auto-escalation contribution model and to use some elements of the 'save for tomorrow programme', which would allow employees to sign up to raise their pension contributions whenever their pay increased.

Default arrangements are the central features of automatic enrolment programmes. Research shows that most of the employees that are allocated to default schemes/default investment funds remain in them. The experiences of the countries where automatic enrolment was introduced demonstrate that the pension supervisory authorities have a role to play in setting up and, where appropriate, reviewing the default arrangements used for automatic enrolment programmes. They are also involved in issuing regulations and standards enabling trustees/fund managers to actively oversee the design and performance of the default investment strategy used for automatic enrolment. The IOPS has previously undertaken work on the default investment funds and issued Working Paper N°18<sup>26</sup> that identifies the main factors that need to be considered by pension supervisory authorities in designing default funds and default investment options.

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<sup>25</sup> Code of Practice No. 13 on governance and administration of occupational DC trust-based pension schemes. Elaboration of the Code involved working with trade associations and other public authorities 'to achieve consistent standards and levels of protection across DC landscape'.

<sup>26</sup> <http://www.iopsweb.org/iopsworkingpapereffectivepensionsupervision.htm>

In New Zealand, there are currently six default providers<sup>27</sup> appointed by the government for a fixed term. The FMA manages the Default Monitoring Panel that supervises default providers. In June 2013, about 22% of all KiwiSaver members<sup>28</sup> were allocated to a default scheme by the Inland Revenue following automatic enrolment.

Considering that the current appointment of KiwiSaver default providers expires during 2014, the Ministry of Business, Innovation, and Employment (MBIE) has initiated a review of the current design/investment mandate of default providers. The FMA is actively engaged in the review process of the default schemes. The main issues under consideration include whether there is a need to introduce changes to the design of the default schemes and what are the most appropriate institutional arrangements. The investment profile of the default schemes is also under review. The Working Group set up by the government in 2011 recommended the creation of a new low-cost default scheme that would only invest in index-based securities and offer only a limited number of investment options. It also recommended establishing an ‘ultra-low-risk’ fund, which would invest only in government short-term securities.<sup>29</sup> Consideration is also being given to the ‘life-cycle’ approach or ‘age appropriate’ investment for default schemes in order to gain better performance on the invested funds and respond to the long-term saving needs of the members.

In Italy, as a part of the automatic enrolment programme, a default investment option was set up by law. It was argued (Rinaldi, 2011) that some particular design features of the default option could be regarded as sub-optimal from the standpoint of employees, especially with regard to the contribution rate (loss of employers’ contribution) and the very conservative investment profile, necessitating review and improvement.

In the UK, all pension schemes selected for automatic enrolment must offer a default investment strategy composed of up to one or more investment funds to which enrolled members will be automatically allocated unless they make an active choice of an investment fund. Trustees of occupational DC trust-based pension schemes have a legal responsibility to define and review an investment strategy, including a default strategy, taking into in consideration the best interests of members and beneficiaries. The DWP has issued guidance to offer a default strategy for DC automatic enrolment pension schemes.<sup>30</sup> TPR alongside with the DC Code of practice<sup>31</sup> issued in November 2013, which includes practical guidance (in the investment section) for trustees on setting up and reviewing a default investment strategy and other

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<sup>27</sup> APM, ASBN, AXA, OnePath, Mercer, and Tower were appointed by the government through an open and competitive tender process for a seven-year term that expired on 30 June 2014. Default schemes are mandated to follow a quite a conservative investment pattern (holding no less than 15% and no more than 25% in growth assets (shares and property)), unless members specifically instruct otherwise. They manage approximately 22.2% of all funds. Default providers are subject to special reporting requirements and their default investment funds are closely monitored.

Of those members that were automatically enrolled into KiwiSaver scheme, a great number remained in the default KiwiSaver scheme to which they were initially allocated (although the proportion of members choosing their own scheme is increasing steadily; Inland Revenue, June 2013).

<sup>28</sup> FMA KiwiSaver Report for the year ended 30 June 2013, <https://www.fma.govt.nz/keep-updated/reports-and-papers/kiwisaver-report-for-the-year-ended-30-june-2013>.

<sup>29</sup> Sharon Collard (2013).

<sup>30</sup> [www.gov.uk/government/publications/guidance-for-offering-a-default-option-for-defined-contribution-automatic-enrolment-pension-schemes--2](http://www.gov.uk/government/publications/guidance-for-offering-a-default-option-for-defined-contribution-automatic-enrolment-pension-schemes--2).

<sup>31</sup> TPR, Code of practice, No. 13: Governance and administration of occupational defined-contribution trust-based pension schemes, November 2013.

investment options, also recently produced the regulatory guidance for DC schemes<sup>32</sup> that provides information on communicating with members about investment choices.

A new key measure aiming to protect savers in the UK from being automatically enrolled into default funds with high charges is the setting of a charge cap on the default funds of all DC qualifying schemes. The default fund charge cap will cover all member-borne management charges, excluding transaction costs. This new requirement will be introduced from April 2015 and the cap will be set at 0.75% of assets under management. Consultancy charges will also be banned in qualifying schemes from 2015. There are also plans to eliminate other member-borne charges incompatible with automatic enrolment. Thus, advisor commissions and active member discounts will be removed in all qualifying schemes from April 2016.

In the US, a default investment option must be set up as a part of automatic enrolment pension plans.<sup>33</sup> In 2007, the DOL published the QDIAs regulation<sup>34</sup> to assist employers in selecting a default investment that would best serve the retirement needs of workers. The regulation provided four types of the QDIAs: (a) an investment fund product that takes into account the participants' age or retirement date (e.g., life-cycle or targeted-retirement date fund); (b) an investment fund product that takes into account the characteristics of the group of employees as a whole (e.g. balanced fund); (c) an investment management service where assets are allocated based on the participants' age or retirement date (professional managed account), and (d) a capital preservation product for only 120 days of participation in the automatic enrolment programme<sup>35</sup> Under the provisions of the Pension Protection Act, the fiduciary protection is offered if a plan sponsor invests automatic enrolment contributions in a QDIA.

## ***II.2 Administrative requirements***

### *(i) Setting proper administrative processes (enrolment, collection, and payment of contributions) and procedures for automatic enrolment programmes*

The pension supervisory authorities may be involved in developing administrative processes for automatic enrolment and related procedures, such as the enrolment of members and the payment and collection of contributions. The common trend across the countries that introduced automatic enrolment is to use already existing systems/structures to make the administration of automatic enrolment programmes as simple and 'automatic' as possible.

The Superintendence of Pensions of Chile played an active role in developing an automatic enrolment administrative system and the procedures for the self-employed workers. One of the main challenges highlighted by the Chilean supervisor was to design a system that would allow efficient enforcement of the payment of the contributions of the self-employed. This was achieved by establishing an automatic enrolment procedure for the payment of contributions by the self-employed workers, which uses the process of tax declaration already in place and undertaken yearly by the SII (see Annex 2, section on Chile, for details). This allowed for the capturing of an important group of people who previously did not

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<sup>32</sup> TPR, Regulatory guidance for DC schemes, April 2014.

<sup>33</sup> A participant's automatic elective contributions are directed towards a default option (QDIA) if he/she decides to make contributions but fails to make an investment choice. Plan sponsors are responsible for deciding how to invest automatic enrolment contributions. QDIA must be managed either by an investment manager, plan trustee, plan sponsor, or a committee comprised primarily of employees of the plan sponsor (fiduciary) or a registered investment company.

<sup>34</sup> The text of regulation is available on the agency's website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa) under 'Law and Regulations'.

<sup>35</sup> An option for plan sponsors wishing to simplify the administration if workers opt-out from participation in automatic enrolment programme before incurring an additional tax.

contribute to the pension system or who did contribute but for a lower share of their total earnings (i.e. dependent and/or self-employed workers).

In New Zealand, the automatic enrolment programme also uses the existing tax system. For work-based KiwiSaver schemes (used also for automatic enrolment), the Inland Revenue collects KiwiSaver members and employers' contributions<sup>36</sup> and transfers them to KiwiSaver providers. As the private sector providers did not want to receive many very small payments, these are gathered together and then transferred in a lump sum via the payroll tax system. Given the tax system was already set up to deal with student loan payments, introducing the KiwiSaver element into the payment system was said not to be too cumbersome (and efforts were made before the start of the system to make sure this was the case).

*(ii) Ensuring efficient collaboration and information sharing between the various public agencies involved in the administrative processes related to automatic enrolment and addressing the IT challenges involved*

Once the administrative policies, procedures, and programs are developed, it is also of critical importance to ensure at the implementation stage efficient collaboration and information sharing between the different public authorities involved in the administrative processes related to automatic enrolment. Another important issue lies in efficiently managing and solving any IT issues arising in relation to automatic enrolment administrative processes and infrastructure. The Chilean experience offers useful insights in this area.

In Chile, a special information technology (IT) system needed to be developed that allowed: (i) all the institutions involved in the process of automatic enrolment – the Superintendence of Pensions, SII, TGR, AFPs, and Institute of Social Security (IPS) – to report and exchange information, and (ii) the SII to compute the amount each self-employed worker was to pay. At the implementation stages, the Superintendence of Pensions was responsible for ensuring that the IT system worked efficiently.

### ***II.3 Supervisory approaches***

Based on the countries' experience covered in this paper, the main supervisory activities in relation to automatic enrolment involve:

- Ensuring compliance with automatic enrolment legal provisions for entities involved in the management and administration of automatic enrolment pension schemes, such as:
  - registration and licensing regime,
  - governance requirements,
  - disclosure of information (with a focus on disclosure of fees and charges and investment strategy/options) to members and public authorities.
- Monitoring the compliance of employers. This compliance monitoring would include basic administrative tasks such as ensuring that contributions are deducted from and remitted to

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<sup>36</sup> The employers are responsible for deducting contributions from employees' gross pay, make their own compulsory employer contributions (from 1 April 2008), calculate and deduct employer superannuation contribution tax (ESCT) from any employer cash contributions (from 1 April 2012), and transfer these contributions to the Inland Revenue. The Inland Revenue will then transfer contributions to each employee's KiwiSaver provider.

members' accounts in a timely manner, but also more subtle behavioural monitoring such as confirming that members are not being persuaded to opt out, and verifying that employers have not had undue influence on members' choices in the automatic enrolment process.

- Monitoring and acting against any misconduct and mis-selling practices by pension service providers.
- Working with small and micro business to encourage compliance (as they might present more risks for members) and use of the automatic enrolment programmes.

(i) *Gaining the necessary powers to enforce compliance of employers and pension service providers with regard to their automatic enrolment obligations*

To enable the successful implementation of automatic enrolment, it is essential that the pension supervisory authority be given the necessary powers that will allow it to check and enforce compliance with the automatic enrolment legal provisions. Effective pension supervisory practices and powers gained by pension supervisory authorities are not static but should evolve to capture any developments in the pension market as the automatic enrolment process gathers pace.

Drawing on the country experiences, the main supervisory powers with respect to automatic enrolment programmes will include:

- approving/licensing of pension schemes/pension service providers;
- granting exemptions from some legal requirements;
- providing guidance and support to employers and financial entities to help them to comply with automatic enrolment legal requirements;
- investigating potential breaches of law;
- enforcing compliance by issuing warnings requiring employers to provide additional information or fulfil certain duties, and, if necessary, issuing penalty notices;
- allowing for self-correction programmes, where relevant (the US experience);
- taking civil administrative and/or criminal actions for misconduct.

These supervisory approaches are similar to those being used for other pension schemes in traditional voluntary or mandatory pension systems. Although largely similar, the number of new (or expected) pension scheme participants prompts governments to emphasise specific regulatory requirements and place additional responsibilities on employers and pension service providers (with respect to such aspects as licensing, governance practices, investment management, and disclosure of information) compared to purely voluntary systems. As a result, supervisory authorities may need to be given new or additional powers and responsibilities directed at protecting the interests of the growing number of members and beneficiaries in the private pension schemes.

For example, in Italy, new legislation developed to support the introduction of the automatic enrolment programme was also aimed at reinforcing the supervisory regime. Thus, COVIP was entrusted with a more complete set of powers, including some that in the past were assigned to other administrations (e.g. some sanctioning powers).

In New Zealand, the FMA Bill 2011 gave new powers to the FMA, allowing the authority to take action on behalf of a company (KiwiSaver provider) or its stakeholders against third parties for poor governance, which is likely to be used in cases such as serious harm to the market, or significant loss (or risk of significant loss) involving a large number of members/investors. The new Financial Markets Conduct Act has empowered the FMA with new enforcement powers, including orders stipulating compliance with the new licensing requirements introduced for fund managers of registered schemes (including KiwiSaver).

The Pension Act 2008 in the UK provides TPR with a set of new powers to prevent, detect, investigate, and effectively enforce against non-compliance with employers' duties and safeguards under the automatic enrolment programme, thus enlarging the authority's powers set under the previous legislative acts (the Pension Schemes Act 1993, the Pension Act 1995, and the Pension Act 2004 dealing with late or non-payment of contributions). To enforce compliance with automatic enrolment, TPR was also given power to issue a statutory notice, which could then be followed up with penalty notices and ultimately could result in court action.

(ii) *Setting up priority areas in monitoring, and enforcing compliance of employers and pension service providers with regard to their automatic enrolment obligations*

Priority areas for the supervision of automatic enrolment programmes are usually determined by the statutory objectives and duties of supervisors set out in the main pension law and relevant pension regulations.

'*Protecting the integrity of KiwiSaver*' is stated to be one of the key areas for financial supervision in New Zealand, considering the already large and ever-growing number of members enrolled in the KiwiSaver scheme. This scheme is expected to become the core retirement saving vehicle in New Zealand in years to come. The FMA strategic document outlining the main areas for monitoring and surveillance in 2013 identified control over KiwiSaver providers to be one of the central priorities, aiming to ensure that KiwiSaver participants are compliant with the regulatory standards and are acting in consumers/members' interests.

Based on the FMA 'Inquiries, Investigation and Enforcement report',<sup>37</sup> three major areas of concern requiring special attention and focus by the FMA in relation to KiwiSaver include:

1. individuals or entities operating without the necessary authorisation and registration;
2. concerns regarding disclosure and advice; and
3. fraud and scams within financial markets.

Ensuring compliance with new licensing regimes and regulatory requirements, a number of which include provisions directly affecting the KiwiSaver regime, is identified as one of the priority areas for supervisory control in New Zealand.

With the introduction of the new disclosure rules in April 2013, reporting and information disclosure by KiwiSaver schemes is seen as another key area for supervision of the automatic enrolment process in New Zealand. The main FMA's supervisory tasks include reviewing investment statements and prospectuses for appropriate disclosure (to prevent the reports containing misleading and false statements), monitoring whether quarterly reports include information on fees, and whether the fees are disclosed in

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<sup>37</sup> FMA, 'Inquiries, Investigations and Enforcement Report', August 2012.

trustee reports, checking if the information is published in an understandable/meaningful way for scheme members, and reviewing the appropriateness of financial advice given to members.

As the KiwiSaver programme grows, supervisory attention is turned to monitoring and stopping misconduct in KiwiSaver sales and distribution practices (such as mis-selling, misinformation, or manipulation of sales or performance related measures) that may seriously jeopardise members' confidence and the integrity of the programme. The FMA's monitoring and surveillance activities are complemented by the issuance of guidance notes on the various legislative requirements and detailing supervisory expectations.<sup>38</sup>

In the United Kingdom, TPR was assigned objectives by the law to 'maximise employer compliance with employer duties (including the requirement to automatically enrol eligible employees into a qualifying pension provision with a minimum contribution) and with certain employment safeguards'.

In line with these high-level objectives, the focus of TPR activities is directed towards employers to (a) oversee whether they comply with their obligations, including the duty to enrol their employees into the qualifying pension scheme; (b) to provide them with all necessary information; and (c) to ensure they do not engage in any prohibited practice in recruitment. TPR also works closely and engages with financial advisors to check whether they know the staging date (i.e. the date from when the new duties will apply to them) of their clients and have a thorough understanding of their duties set in the legislation, allowing them to provide good advice to their clients and pension/software providers (to ensure that they supply their clients with good quality products for automatic enrolment in time for the staging date). As of 2014, TPR supervisory activities mainly involve medium-sized and small employers, which are considered to have less knowledge and experience with pension provision according to DWP research. The pro-compliance culture created among large employers is expected to be remodelled for the medium-sized and small employers in the current staging process.<sup>39</sup>

The regulatory agenda includes another critical item for TPR, aimed at assuring retirement security and at protecting members' rights and benefits, including those in DC schemes once they have been automatically enrolled. TPR role includes ensuring that all schemes available for automatic enrolment are well run and can provide good outcomes for members. As outlined earlier, TPR issued standards for 'good' DC schemes and their quality features, and TPR continuously supports pension providers to offer good quality schemes for automatic enrolment. Recognising the critical importance of the governance of a default investment strategy and trustees' responsibility for overseeing it, TPR is expected to intervene in situations where it would be considered that members' savings are at risk because of a lack of oversight of the default investment strategy. TPR regulates the National Employment Savings Trust (NEST), which is subject to the same expectations on governance and administration standards as other occupational pension schemes.

In the US, the Department of Labour's Employee Benefits Security Administration (EBSA) enforcement activities are focused on pursuing 401(k) plan payroll deductions that have not been paid into members' accounts in a timely manner. Failure to forward employees' contributions was identified as a recurring issue throughout the country, and monitoring delinquent employee contributions was designated by the EBSA as an ongoing national policy priority. The EBSA's commitment to protecting employees' contributions led to the first solely national enforcement initiative – the Contributory Plans Criminal Project. The EBSA supervisory focus is also placed on monitoring and enforcing compliance with the reporting and disclosure provisions of the Employee Retirement Income Security Act (the ERISA legislation).

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<sup>38</sup> KiwiSaver; Guidance Notes, <https://www.fma.govt.nz/help-me-comply/KiwiSaver/guidance-notes/>

<sup>39</sup> TPR Compliance and enforcement strategy, para. 2.5.

## ***II.4 Communication and education***

### *(i) Putting in place efficient communication and education campaigns to accompany the launch and implementation of automatic enrolment*

The country experiences highlight the importance of accompanying the launch and implementation of automatic enrolment programmes with broad communication campaigns and education directed at all participants in the automatic enrolment process. Enactment of an automatic enrolment legal framework and its enforcement alone is not enough to increase membership and to lead to behavioural change (making people save more for retirement in private pension arrangements). Communication campaigns and financial education have a role to play in increasing understanding with regard to the changes taking place in the pension system and to specific aspects of automatic enrolment programmes, thus improving participation and compliance levels.<sup>40</sup>

How efficiently these campaigns are designed and run will to a large extent determine the success of automatic enrolment programmes,<sup>41</sup> for example by reducing opt-outs and increasing voluntary personal savings both at the workplace and beyond. Carefully developing a communication strategy timeline is another important matter for consideration. Launching a communication campaign that allows sufficient time for employers and providers to understand the main changes and implications for their activities/business, and to prepare to comply with the new automatic enrolment requirements were highlighted by several supervisory authorities. Ensuring continuity, the provision of information/communication on an on-going basis, is also of crucial importance. Country experiences also highlight that special focus should be placed on increasing the financial capability of employees and employers with no or little pension experience (small and micro businesses) through extensive communication.

### *(ii) Using education as a supervisory tool directed at fostering a compliance culture and high standards of conduct of pension market participants*

The pension supervisory authorities in close collaboration with other public agencies and stakeholders play a key role in designing and promoting awareness campaigns and understanding in relation to automatic enrolment.

Most importantly, in some jurisdictions (New Zealand and the UK, for example), the information and engagement campaigns are regarded as a proactive supervisory strategy to achieve a higher level of compliance with pension laws in general and the automatic enrolment legislation in particular. Enhancing the compliance culture through education is seen as an effective means to achieving higher levels of good conduct, integrity, ethical behaviour, and better conformity with the regulatory requirements.

In Chile, when the automatic enrolment regime for the self-employed was developed, it was considered that the effectiveness of the programme critically depended on the knowledge and information self-employed workers had about the process. Recent research (Landerretche and Martinez, 2013)<sup>42</sup> finds that self-employed workers are more likely to join a pension system when they have greater level of pension literacy.

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<sup>40</sup> In all of the countries that implemented automatic enrolment programmes little knowledge of pensions was observed (Fornero and Monticone, 2011; Crossan, 2011; Landerretche and Martinez, 2013).

<sup>41</sup> Recent UK research shows that the retention rates could be as high as 82% when information is presented clearly and effectively, 'Keep on nudging: Making the most of automatic enrolment', *Standard Life*, 2011.

<sup>42</sup> See Landerretche and Martinez (2013, pp. 251–297).

The Undersecretary of Social Protection is the main agency in charge of informing the population on pension matters in Chile. The Superintendence of Pensions has also been very actively involved in communication activities. The authority has prepared briefings, updated its website with information focusing on the rights and duties that the automatic enrolment regime introduces to the self-employed,<sup>43</sup> including a section with frequently asked questions about the essential facts of automatic enrolment for self-employed workers. An advertisement has also been developed in the form of a video, which is played on the subway TV screens in Santiago. In addition, the Superintendence of Pensions organised training sessions for its staff in charge of customer service to enable them to answer queries about the automatic enrolment process for the self-employed workers. Interviews between customer service staff and self-employed workers can be done in person, through the website, or a call centre.

In Italy, the Ministry of Labour was in charge of running a communication campaign to inform the public about the automatic enrolment reform, using a wide range of communication channels. The information campaign/messages were mainly communicated through TV, but also through radio programmes, the organisation of special dedicated events, and the setting up of a call centre. In addition, numerous information and education initiatives were organised at the workplace by employers and trade unions, also involving the active participation of the contractual pension funds. Also, financial providers (e.g. insurance companies) have invested in marketing activities to promote their new pension products (although they qualified for automatic enrolment only in specific cases). The effectiveness of the communication programmes was monitored both during and at the end of the campaign.

As pointed out by Rinaldi (2011), the review of the automatic enrolment programme revealed a number of suboptimal aspects with regard to its implementation, including communication strategies. It was considered that insufficient efforts were taken to create awareness about the automatic enrolment programme in view of a general low level of financial literacy among Italian workers.<sup>44</sup> Also, the decision to launch the automatic enrolment programme a year earlier than initially planned did not allow enough time to explain major changes in the system to the public at large. With respect to the communication strategy itself, public authorities avoided explaining the result of the past reforms that decreased public retirement benefits and did not put enough effort into communicating the advantages of joining the automatic enrolment programme that was set up. Somehow, in contradiction with the spirit of the automatic enrolment system (that is based on the expectation of inertial behaviour, once appropriate defaults are set up), the communication campaign stressed the need for individuals to take responsibility, make a choice, and decide on the appropriateness of the programme for themselves. In addition, the implementing regulation requested a form to be filled by each employee, indicating the choice they wanted to make.

The more positive experience of New Zealand might be attributed to the fact that the government invested substantial effort and resources into promoting and increasing the levels of financial literacy among the population, in particular on retirement issues, through providing generic KiwiSaver information and pension education. As a part of governmental efforts, the Commission for Financial Literacy and Retirement Income (CFLRI, formally the Retirement Commission) was set up. Improving financial education on retirement income issues and encouraging New Zealanders to save with KiwiSaver lies at the heart of the Commission's endeavours. One of the flagship projects developed by the Commission to improve understanding and help individuals with every-day financial decisions, including retirement,

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<sup>44</sup> In the years 1990s, Italy implemented a series of major reforms, aiming to secure its financial sustainability. In the public, PAYG system, parametric changes followed by the introduction of a notional defined contribution (NDC) scheme entailed a substantial reduction in pension benefits for younger workers.

consisted of the launch of the *Sorted* website<sup>45</sup> which provides independent and impartial information and interactive, easy to use calculators on a wide range of financial topics, including retirement.

The FMA plays an important role in enhancing the knowledge and understanding of individuals and pension market players about the KiwiSaver programme. The FMA financial literacy programme focuses on investment aspects in relation to the KiwiSaver scheme. The FMA currently has on its website six investor educational brochures<sup>46</sup> and more are in development.

The FMA is also actively engaged in communicating and providing the necessary support and education to KiwiSaver providers to encourage their compliance with legal requirements and raise the standards of conduct and corporate governance. As a part of these efforts, the FMA role includes issuing guidance notes to clarify regulatory requirements and supervisory practices.

In the UK, to ensure the success of the automatic enrolment reform and to affect compliance behaviour, a broad-scale information campaign was developed and implemented by the government. The aim was to bring a cultural shift in people's attitudes to saving and achieve high-level compliance with automatic enrolment legislation. Two governmental authorities, TPR and the DWP, are responsible for running the communication campaigns.

The focus of TPR's communication strategy is based on informing/communicating with employers and pension service providers about their key duties and obligations, providing them with supporting guidance materials on the regulatory requirements<sup>47</sup> as well as supervisory working methods/approaches and also information on the ways they were expected to comply with the new law.<sup>48</sup> Special efforts were made to elaborate and provide easy access to guidance materials available on TPR website, tailored to the specific needs of different audiences and available in multiple formats (mainly on-line). The communication challenge is considered to be greater for medium-sized and small employers – a particular area of focus for TPR for the years to come.

TPR also supports the concurrent DWP communications strategy, which is aimed at members of the public and is designed to raise awareness of automatic enrolment, encourage saving and retirement planning in general, and discourage those who have been enrolled from opting out.

*(iii) Assessing the knowledge and preparedness of employers and pension service providers in relation to their automatic enrolment responsibilities*

In order to identify and better address the needs of the targeted audience through communication and engagement campaigns, pension supervisory authorities are taking measures to assess the knowledge and preparedness of employers and pension service providers in relation to pension reform and their automatic enrolment responsibilities.

Since the launch of the automatic enrolment scheme in October 2012 in the UK, the levels of compliance were considered good by TPR, leaving, however, no room for complacency in light of pending enrolment of medium-sized and small employers. As a part of its responsibility for maximising employer compliance with their duties, TPR undertakes regular research and conducts surveys to determine the

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<sup>45</sup> <https://www.sorted.org.nz>.

<sup>46</sup> <http://www.fma.govt.nz/help-me-invest/getting-the-right-information/brochures/>.

<sup>47</sup> <http://www.thepensionsregulator.gov.uk/employers.aspx>.

<sup>48</sup> TPR, Detailed guidance for employers; Employer Duties: our regulatory approach; [www.thepensionsregulator.gov.uk/](http://www.thepensionsregulator.gov.uk/).

degree to which employers and intermediaries know and understand their obligations, as well as to capture their attitudes and intended actions, so as to assess the state of preparedness of the market, and to act accordingly.

The latest research (published February 2014) shows that awareness and understanding of the employer duties are increasing and that the majority of employers intend to comply with the law (98% of large/medium employers and 94% of small employers were aware of the changes<sup>49</sup>). However, TPR has still expressed concerns about a lack of awareness and understanding (among employers and intermediaries alike) of important details of the legislation, and an underestimation of the time it takes to prepare for automatic enrolment.

The research has revealed that there is some misunderstanding of what proper compliance involves – believing for example that avoiding or delaying tactics are acceptable – and in the view of the regulator, there is also a risk that there is or will be limited capacity and knowledge among the intermediaries that employers are intending to use. The research shows that 26% of Independent Financial Advisors (IFAs) and 77% of accountants are unaware that employers will need to register with TPR; whilst 29% of IFAs and 57% of accountants are unable to identify all types of workers who will need to be assessed for automatic enrolment eligibility. Small and micro employers are most likely to consult accountants and IFAs. To mitigate these risks, TPR is targeting resources, with a particular fresh focus on the adviser community through their professional bodies. Intermediaries are key to improving employers' understanding and compliance, and in ensuring that sufficient time is set aside to enable employers to meet their obligations.

Also in New Zealand, in spite of considerable efforts employed by the statutory agencies, including supervisory authorities, the evidence suggests that there are still ways of improving awareness and financial literacy on retirement issues, including automatic enrolment. In 2010, the Inland Revenue commissioned the Colmar Brunton company to conduct a survey of public attitudes and on the early impact of the KiwiSaver. The 2010 Colmar Brunton survey revealed that 28% of those polled decided not to join and 13% required more information about KiwiSaver. The findings of the report suggested that of all the people not members of KiwiSaver schemes, over a third would be willing to save if more actively prompted.

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<sup>49</sup> See GFK report, <http://www.thepensionsregulator.gov.uk/docs/ecr-employer-tracker-research-autumn-2012.pdf>.

### III Conclusions

Automatic enrolment is an effective way to increase participation and boost retirement savings in non-mandatory private pension systems. Evidence from the countries that have implemented such programmes shows the positive effect of ‘soft compulsion’ to make people save for retirement. Most of the members who are automatically enrolled tend to stay within the system.

As automatic enrolment makes use of the behavioural feature of people’s inertia, default arrangements are a central element of the programme. Members tend generally to be passive and stay within the original fund and asset allocation. They also tend to accept the initial contribution rate. That is why it is critically important for the governments to ensure that such default settings are appropriate, i.e. are cost effective and respond to the long-term saving needs of the members. Public authorities, including pension supervisory authorities, need to carefully consider the design of any default option (such as default funds, asset allocation strategy, and contribution rate) available for automatic enrolment. As the programmes develop, they need to take necessary measures to improve features of the default arrangements, either through legislative changes and/or by encouraging higher standards for pension schemes and their managers with respect to governance and management practices of these default schemes and funds.

Also, nudging people into retirement saving schemes requires that the overall regulatory framework is solid and effective. It has been observed that in all countries that introduced automatic enrolment programs, in view of the important number of new or potential new pension scheme participants, governments have reinforced the regulatory requirements and placed additional responsibilities on employers and pension service providers, with the main objective to protect the interests of the growing numbers of members and beneficiaries. Regulations were reinforced by the revision and establishment of new obligations related to automatic enrolment in particular, with respect to licensing/registration regimes, governance, charges, and transparency/information disclosure. Pension supervisory authorities participated in the development and review of regulations in relation to automatic enrolment and have the main role of enforcing effective compliance with legal provisions, including those of automatic enrolment.

The pension supervisory authorities may also be involved in developing administrative processes for automatic enrolment and related procedures, such as enrolment of members, collection of contributions, and payment of benefits. It is considered essential to enhance collaboration and information sharing between the different public authorities involved in the administrative processes related to automatic enrolment using an efficient information technology system.

Finally, pension supervisors, in close collaboration with other public authorities and stakeholders, developed and implemented broad-scale communication and awareness campaigns directed to all participants of the automatic enrolment program. In some countries, communication and engagement campaigns are regarded as a proactive supervisory strategy to achieve higher levels of good conduct, integrity, ethical behaviour, and better conformity with the regulatory requirements, including automatic enrolment provisions.

Preparing, launching, and overseeing the functioning of automatic enrolment programmes presents a number of challenges for pension supervisory authorities. The following lessons can be drawn from the experiences of the countries covered by this paper and warrant the attention of pension supervisors and policymakers in the jurisdictions who may consider introducing similar programmes in the future:

#### *1. Legislative and design features*

- *Develop a solid regulatory framework and secondary enabling legislation in relation to the automatic enrolment regime.*

- *Clearly define in the relevant pension legislation the main supervisory role and objectives with respect to the automatic enrolment programme.*
- *Set up appropriate default arrangements for automatic enrolment right from the beginning and, if necessary, review them to maximise their attractiveness and appropriateness for members.*
- *When setting the automatic enrolment mechanisms, make sure that appropriate attention is paid to limiting the costs and charges of suitable default options.*
- *Make the scope of automatic enrolment arrangements as wide as possible, including a wide range of (or all) employees, employers, the self-employed, small businesses, to achieve higher pension coverage and retirement savings.*
- *Combine automatic enrolment with other measures (such as auto-escalation of contributions, financial incentives, government subsidies, matching contributions) to improve adequacy as well as coverage.*
- *Make automatic enrolment an integral part of a comprehensive pension policy strategy, encompassing efforts to strengthen regulations, default options, information to members, and financial education.*

## *2. Administrative arrangements*

- *Use the existing system and other public authorities to make the administration of the automatic enrolment programme as simple and automatic as possible – which in turn makes the oversight more straight forward.*
- *Allow sufficient lead-in time for employers/self-employed to understand the implications for their business and be prepared/make the necessary arrangements (payroll, HR) to comply with automatic enrolment duties.*
- *Consider a gradual approach, if necessary, when introducing/phasing in automatic enrolment programmes.*

## *3. Supervisory approaches*

- *Make sure the supervisory authority has the necessary powers to enforce the new automatic enrolment requirements.*
- *Supervisors need to have a clear, unambiguous focus on their interventions in relation to automatic enrolment, based on a risk oriented approach.*
- *Introduce strong licensing and registration requirements (and if necessary review them) for employers, pension schemes, and pension service providers to further improve members' protection.*

## *4. Communication and education*

- *Launch broad-scale and effective communication and education campaigns to inform on the key aspects of the new legislation (in particular on participants' rights and duties) and gain understanding and support from the general public about automatic enrolment process.*

- *Focus on employers, get them engaged and communicate at an early stage, so that employers are aware of their automatic enrolment obligations and are adequately preparing and fulfilling them, and that employees know their rights.*
- *Use information/engagement campaigns as part of a proactive supervisory strategy to achieve a higher level of compliance with pension laws in general and automatic enrolment legal requirements in particular.*
- *Provide specific supporting materials and detailed guidance which is easy to access and available in multiple formats, particularly on supervisory authority websites to enable employers and pension service providers to understand the legislation and legal requirements, and fulfil their automatic enrolment duties.*
- *Actively engage with intermediaries (e.g. financial advisers) – by providing guidance, education, and information to increase their knowledge and capacity to advise employers on how to meet automatic enrolment legal obligations.*
- *Assess the knowledge and preparedness of employers, the self-employed, and pension service providers with regard to their duties and obligations under automatic enrolment (prior to and within the programme implementation) and act/develop supervisory policy accordingly.*

**ANNEX 1**  
**Key features of automatic enrolment programmes**

Country	Year of implementation	Target population	Opting-out window	Contribution rate	Financial incentives	Contribution holidays
Chile	2012-2015 <sup>50</sup>	Self-employed workers in a certain tax category	Opting out is possible every year from 2012 to 2014, as part of the income tax declaration process	Individual: 10% of covered earnings	None	Not allowed
Italy	2007	All employed workers in the private sector in the first half of 2007; subsequently new employed workers	Opting out is possible in a window of 6 months	Employer contribution: 6.91% of gross salary to be paid in the pension funds, replacing the obligation to pay the same amount at the end of the employment relationship (as severance pay)	The same as for those who join the pension schemes voluntary	Not allowed
New Zealand	2007	New employees	Opting out is possible within a window of 2 and 8 weeks following enrolment	Employee contribution: 3% min default rate (up 8%) Employer contribution: 3% (min)	The government makes annual contributions in a form of member tax credit of NZD 521.43 (for annual employees' contribution of NZD 1042.86) and 'kick-starts' each individual account with NZD 1,000	After the first 12 months of membership, automatically enrolled workers can stop contributing for a minimum of 3 months, up to 5 years at a time for any reason
The United Kingdom	2012	Employees between the age of 22 and State Pension Age who earn more than GBP 10,000 per year	Opting out is possible at any time. Payments already made are refunded if opting out within the month following the enrolment.	The minimum contribution rate will increase over a period of 6 years. From 2018 onwards, the minimum contribution rate will be 8%, including the employer contribution	Government contribution through tax relief	Allowed in the sense that people can opt out at any time

<sup>50</sup> The Chilean government may consider extending the default period of the automatic enrolment beyond 2015 (see Annex 2 for details).

				Workers are enrolled back every three years	(minimum 3%), the employee contribution 4% and 1% from the government tax relief on earnings over GBP 10,000 up to a certain limit		
The United States	United States	1998	Employees older than 22 years and having completed a year of service	Opting out is possible within 90 days. Contributions (including earnings on them) are in this case returned to employees	In basic and EACA 401(k) plans, employees decide on the contribution rate (within the limits set by the law) In the QACA plan, the minimum default rate is 3%, which progressively increases to reach on the fifth year 6%. Employers have several options, depending on the plan, to complement employees' contributions. Auto enrolment plans can include escalation features.	Tax incentives	Not allowed

## ANNEX 2: Country studies<sup>51</sup>

### CHILE<sup>52</sup>

#### Box 2. Key features of the automatic enrolment programme for self-employed workers in Chile

##### Implementation date

In Chile, the automatic enrolment programme for self-employed workers was developed as a part of the process of mandatory affiliation of the self-employed into the pension system. The new legislation (Law No. 20.255<sup>53</sup>) set an obligation for self-employed workers to contribute to a pension fund as of 1 January 2012 and also provided new rights to access to welfare services. The system established a gradual process of affiliation and contributions by the self-employed workers in the pension system.

##### Covered population

The self-employed workers who receive income taxable under Article 42, No. 2 of the Chilean Income Tax Law.

Self-employed workers, who do not fall in this category, may contribute to the system on a voluntary basis.

##### Exemption

All male self-employed workers who were at least 55 years of age, and female self-employed workers who were at least 50 years of age, as of January 1, 2012, are exempt from the aforementioned obligations. Also, the self-employed workers who have an early retirement benefit or those who are members of a pension institution under the old PAYG System managed by the Institute of Social Security (IPS) or the Social Security Department of the Chilean Police Force (DIPRECA) and the National Defence Social Security Fund are legally exempt from making these contributions.

##### Pension schemes

Contributions by the self-employed workers are transferred to individual accounts in private pension funds managed by Pension Funds Administrators (AFPs). The default funds are the same as in the mandatory pension system.

##### Contributions

The Inland Revenue Service (SII), the entity responsible for determining the amount of the contributions that the self-employed workers must pay to the pension system each year, withholds 10% of the amount of each invoice or receipt for professional services provided by the self-employed workers to their clients to make provisions for the tax payment, which will then be transferred to pension fund administrators in the form of contributions.

From 2018, self-employed workers will be additionally required to make contributions of 7% of their covered earnings for health care insurance.

##### Opt-out options

The self-employed workers can decide to opt out of the automatic enrolment programme for the period 2012–2014 if specifically indicated as a part of income tax process. As from 1 January 2015, participation in the pension system becomes mandatory for the self-employed workers, which will be effective with the tax declaration process of the year 2016.

##### Main supervisory authority

Superintendence of Pensions, Chile, <http://www.spensiones.cl/>.

<sup>51</sup> Automatic enrolment programmes were introduced in Italy, New Zealand, and the United Kingdom at the national level, and for the self-employed workers in Chile for a limited period and for certain occupational pension plans (in particular 401(k) plans) in the United States.

<sup>52</sup> Information included in this section was provided by the Superintendence of Pensions (SP) of Chile for the years 2013–2014.

<sup>53</sup> For more details, see <http://www.spensiones.cl/portal/regulacion/582/w3-article-7330.html>.

## **Pension coverage for self-employed workers**

Introduced in 1981, the Chilean system is based on privately managed defined contribution multi-fund personal accounts. Workers in the formal sector with a contract make mandatory monthly contributions at a level of 10% of monthly earnings (up to 72.3UF<sup>54</sup>). Contributions are transferred directly by employers to the employees' personal accounts. Formal sector workers can also increase their retirement funds by making additional voluntary pension savings, which are tax free up to 50UF. Until recently, independent/self-employed workers could participate in the system on a voluntary basis and decide, at their discretion, on the frequency and the level of their contributions. In 2008, a major overhaul of the pension system was enacted, addressing some key policy challenges, including worker coverage, gender issues, pension adequacy, and administrative fees. One of the main modifications introduced by the pension reform was the reinforcement of the public pension system through the creation of the new solidarity pillar, known as the Solidarity Pension System.

Improving the pension coverage of self-employed workers was regarded as one of the major challenges by the Chilean authorities. This has been addressed by the Pension Reform Law 2008. The law included measures to increase the participation of the self-employed workers in the pension system.

The analysis of the pension system before the 2008 Reform showed that the coverage of self-employed workers was minimal: 4% in the period between March 2001 and March 2011, which may be explained primarily by the following reasons:

- participation of self-employed workers in the pension system was voluntary;
- both employment and therefore income of the self-employed is insecure, which can prevent them from contributing on a monthly basis;
- there is a lack of information regarding the benefits of contributing to a pension system, and of the 'pension culture' as well as a preference for liquidity.

Furthermore, it has been observed that the great majority of self-employed workers have no additional savings, apart from pensions. There is also evidence that even though self-employed have worked some periods as employees, they have spent a large proportion of their active life working independently, which results in low pension savings.

The 2008 pension reform introduced an automatic enrolment programme as a part of the process of mandatory affiliation of self-employed workers into the pension system. The new legislation set an obligation for self-employed workers to contribute to a pension fund (as of 1 January 2012) and also established new rights for self-employed workers, such as access to Solidarity Pension System benefits, access to the Disability and Survivor Insurance, affiliation to the Family Allowance Compensation Funds, and access to the Insurance against Work Accident and Professional Illness Risk. It is expected to boost participation in the pension system of this group of workers and thus to increase their pension adequacy at the end of their working lives.

### ***A. Mandatory pension contributions***

The law stipulated a gradual process of pension system affiliation and mandatory contributions (a percentage of covered earnings to be used for the purposes of paying contributions). During the first three years (2012–2014), the self-employed were automatically enrolled in the system with the option to opt-out,

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<sup>54</sup> Price Index Unit, UF in Spanish (Unidad de Fomento).

if specifically indicated. From the fourth year (2015), all eligible self-employed workers will have to contribute with no possibility to opt-out in the tax declaration process of the year 2016 (Table A1). The opt-out mechanism is implemented annually in the income tax process.

**Table A1. Gradual process of pension system affiliation and mandatory contributions for self-employed workers**

Year	Covered earnings	Process
2012	40%	Self-employed workers are obligated to make contributions, except for those who explicitly indicated otherwise.
2013	70%	They are obligated to make contributions, except for those who explicitly indicated otherwise.
2014	100%	They are obligated to make contributions, except for those who explicitly indicated otherwise.
2015	100%	They are obligated to make contributions, without exception and no possibility to opt out.

The obligation to contribute is set on an annual basis (instead of a monthly basis for employees) to adapt more adequately to the conditions of income and employment of self-employed workers.

In the first year of the automatic enrolment program, 32% of self-employed workers contributed to the pension system (304,011 self-employed workers out of a total of 953,743 eligible under Article 42 N°2 of the Income Tax Law).<sup>55</sup> The rest of those eligible decided to opt out of automatic enrolment (see Table A2).

**Table A2. Statistics on self-employed workers pension system in Chile as of end 2012**

	No./Amount	%
Number of self-employed workers who contributed to the system through the automatic enrolment program	304,011	32%
Average amount of their contributions (Chilean pesos)	\$68,962	4%
Amount collected in contributions as of July 2013 (millions of Chilean pesos)	\$16,698	0.4% <sup>(1)</sup>

The denominator is the total amount collected by pension funds for mandatory contribution as of end 2012.

Source: The Superintendence of Pensions (SP) of Chile, SP's calculations.

Table A2 shows that the contributions correspond to 4% of the annual covered earnings (plus fees and the disability and survivors insurance premium), which corresponds to the first stage of the phasing in of the program in which the self-employed contribute 10% of the 40% of his/her covered earnings. This percentage will reach the current mandatory contribution of employees (10% of covered earnings) once the phasing-in process ends in 2015 (see Table A1).

<sup>55</sup> Preliminary data for 2013: 254,295 self-employed contributed, representing about 27% of the eligible population.

### *Covered earnings*

The annual covered earnings to be considered for contributions by self-employed workers correspond to 80% of total gross income earned during the calendar year prior to the tax statement, subject to Article 42 No. 2 of the Income Tax Law. This sum may not be lower than one minimum monthly wage or higher than the product of multiplying the maximum contribution limit by 12.<sup>56</sup> Article 42 No. 2 refers to individuals who give an invoice or receipt for professional services provided to clients. The invoices or receipts represent the self-employed workers' income and form the basis for an assessment of their contributions.

If a worker receives income and wages from one or more client/employer simultaneously, all covered wages and income are totalled for the purposes of calculating the maximum yearly limit.

### *Payment*

The tax declaration process already in place is used in the automatic enrolment programme and for the payment of contributions by self-employed workers, which is undertaken yearly by the SII. Using the tax declaration process allows an important group of people to be covered who previously did not contribute to the pension system, or did contribute but for a lower share of their total earnings (coming from dependent and/or self-employed workers).

The tax declaration process is undertaken in April each year for the earnings and income generated in the previous calendar year. Regarding self-employed workers who earn income subject to Article 42 No. 2 of the Income Tax Law, tax is assessed on the basis of the invoices or receipts given by self-employed workers to their clients for professional services rendered. The SII withholds 10% of the value of each invoice or receipt to make provision for the tax payment the worker will have to pay for that calendar year.

The law established the SII as the entity responsible for determining the amount of the contributions to the pension system that self-employed workers must pay each year. For this, the SII shall consider (i) its own information on the amount of income generated and tax withheld from the invoices for professional services which were paid during the previous calendar year and (ii) the information reported and certified by the AFPs of the self-employed workers who have chosen to make monthly pension payments during the previous calendar year (referred to as Provisional Contribution Payments (PPC)) and the amount of contributions paid or declared by their employer(s) if the worker is simultaneously receiving wages as an employee.

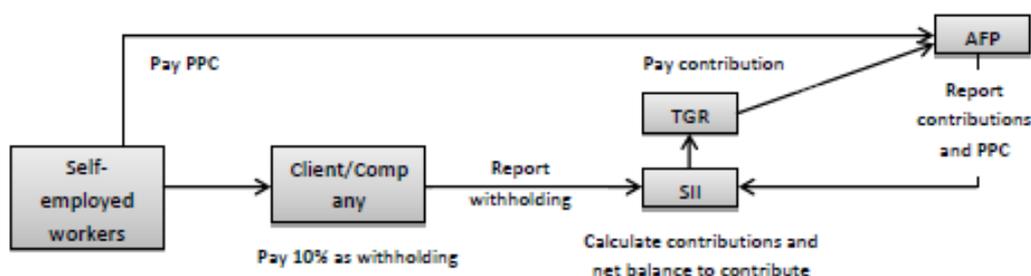
During the first two weeks of May each year, the SII will inform the TGR of the names of the self-employed who must pay pensions contributions, as well as the amounts they owe. Using the amounts withheld by the SII, the TGR must pay the mandatory pension contributions to the AFP to which the self-employed worker is affiliated, after which the AFP must register and deposit mandatory contributions into the self-employed workers individual capitalisation accounts. If the amount retained is insufficient to cover the total amount of contributions computed by the SII, the self-employed worker is obliged to pay directly the remainder (see Figure A1).

Mandatory contributions must be paid, first and foremost, above all other payments, fees, or charges of any nature, including tax payments or any other debt.

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<sup>56</sup> The maximum limit for 2014 is 72.3 UF. The UF is a price indexation unit. The value of the UF as for December 2012 was CLP 22,841= USD 47.68. This index is calculated monthly and on the basis of a time horizon from the 10th day of the current month to the 9th of next month.

**Figure A1. Interactions between institutions for mandatory participation of self-employed worker in Chile**



Note: PPC – private pension contributions.

### *Delinquency arrears*

AFPs are obliged to take action to collect all contributions owed by self-employed workers, including price-indexed values and interests.

The law stipulates that the state subsidy Solidarity Pension Payment of a self-employed worker must be reduced if the individual owes pension contributions.

### *Opting-out*

Self-employed workers can opt out from the system for the period between 2012 and 2014. Self-employed workers can refuse to use their tax refund to pay pension contributions via the SII website.<sup>57</sup> This option is available until the end of the tax income declaration process (end of April each year). Previous to this process, the SII informed self-employed workers by email about the essential facts in relation to automatic enrolment (phasing in, the importance of contributing to the system, eligibility, earnings covered, and benefits, among others) and the option to opt out of automatic enrolment. Once the opt-out time expires, the SII calculates annual covered earnings of the self-employed workers using their tax declaration.

### *Disability and Survivor Insurance*

Self-employed workers that have paid their mandatory pension contributions will have access to Disability and Survivor Insurance (SIS) as established in DL 3.500 (1980). The coverage of this insurance will have the following characteristics for this group of workers, depending on the covered income for which mandatory contributions were made:

- If the worker made contributions for an annual covered income equal to or greater than seven minimum monthly wages, he/she will have annual coverage from May 1 of the year in which contributions were paid to April 30 of the year after this payment.
- If the taxable income was less than seven monthly minimum wages, the self-employed worker would be covered by the SIS for the number of months resulting from the following formula, as of May 1 of the year in which the contributions were paid:

<sup>57</sup> [www.sii.cl](http://www.sii.cl).

$$\text{Months of coverage} = \frac{\text{Number of contributions equal to minimum monthly income}}{7} \times 12$$

- In any case, whatever the amount of contributions paid, workers will be covered in May of the year in which payment was made.

#### *Management fees*

AFPs may charge fees for managing the individual accounts of self-employed workers, which must correspond to the average fee charged by the administrator to which the specific worker belongs during the fiscal year prior to the payment of these contributions.

#### ***B. Mandatory health care contributions***

As of January 1, 2018, self-employed workers must contribute 7% of their covered income to finance health insurance.

Self-employed workers must make monthly health care payments to the National Health Fund. Alternatively, if they are already making pension contributions, they may choose to make these health care payments to the AFP, which will transfer them to the National Health Fund. The covered income declared by members each month to either the National Health Fund or the AFP would be used to calculate these payments. This income may not be lower than one minimum monthly wage or higher than the maximum covered limit. However, self-employed members may also choose to join the private health system.

Each year, the SII shall determine the amount that self-employed members must pay in contributions to finance health services. The National Health Fund will inform the SII of the amount of health contributions that self-employed workers paid each month during the previous calendar year. Meanwhile, the Superintendence of Health will inform the SII of the Health Insurance Institution which self-employed workers are affiliated to (either public or private).

Just as in the case of pension contributions, during the first two-week period of May the SII will provide the TGR with the names of the self-employed members who are obliged to pay contributions to finance health care services from the National Health Fund, as well as the amount due. Finally, the Treasury will pay the health care contributions to the National Health Fund.

To become entitled to the medical services offered by the Health Care System and services under the 'free choice' option, self-employed workers must have contributed during the month immediately prior to the date on which they use the benefit, or have paid at least six continuous or intermittent contributions over the previous 12 months.

#### ***C. Social Security benefits for self-employed workers***

The Pension Reform Law establishes that self-employed workers are eligible for the Solidarity Pension System under the same conditions as employees. The solidarity pillar's main objective is the prevention of poverty in old age or in the event of inability to work.

The Solidarity Pillar includes an old-age pension, Basic Solidarity Old-Age Pension (PBS in Spanish) for non-participants in the contributory system and a complement for low old age contributory pensions, old age Solidarity Pension Supplement (APS in Spanish).<sup>58</sup>

For self-employed workers, the law also establishes additional benefits, as described below:

### **Access to Family Dependent Allowance**

Self-employed workers who are obliged to join the pension system will be eligible for the Family Dependent Allowance created by Decreto con Fuerza de Ley, DFL, 150 (1981)<sup>59</sup>, as long as they are not behind in their pension contributions. This legal disposition of the Pension Reform Law entered into effect on January 1, 2012.

Family dependents are to be accredited through the IPS, which communicates this information to the SII. The benefits of the Family Dependant Allowance are paid annually. However, Family Dependent Allowance benefits will be used to pay for the self-employed mandatory pensions contributions if he/she is in debt.

### **Coverage of Insurance against Work Accident and Professional Illness Risk**

As of January 1, 2010, self-employed workers who are making pension and health care contributions are covered by an insurance against work accidents and professional illnesses. For this purpose, they are obliged to pay the basic general contribution which corresponds to 0.95% of their covered income and any additional contributions that may apply, which may not exceed 3.4% of their covered income.

These contributions are calculated on the basis of the same income for which these workers make their pension contributions, and are not considered income for purposes of the income tax law.

The contributions described above must be paid each month to the entity that manages the Insurance against Work Accident and Professional Illness Risks to which each specific worker is affiliated, as established in Law No. 16,744.<sup>60</sup>

Contributions for this insurance are paid and collected in a manner similar to the procedure used for pension contributions.

To be eligible to be covered by an insurance against work accidents and professional illnesses, self-employed workers must not be behind in their contributions for this insurance. Workers are considered ineligible if they have not made payments for two months.

This obligation entered into effect on January 1, 2012 and shall be implemented through the same gradual process as established for pension contributions. The same age and sex exemptions as for pensions apply.

In any case, as of October 1, 2008, all self-employed workers may contribute voluntarily to insurance against work accidents and professional illnesses, provided that they have made their pension and health care contributions during the corresponding month.

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<sup>58</sup> See <http://www.spensiones.cl/portal/regulacion/582/w3-article-7330.html> for more details.

<sup>59</sup> See <http://www.leychile.cl/Navegar?idNorma=4824>

<sup>60</sup> See <http://www.leychile.cl/Navegar?idNorma=28650>

## **Preliminary evaluation of the automatic enrolment programme and identified challenges**

The evaluation completed by the different institutions involved in automatic enrolment found the programme satisfactory. Several factors contributed to this positive outcome. Firstly, important information campaigns conducted prior to the implementation of the automatic enrolment programme allowed self-employed workers to be informed of the stages of the process, the benefits of contributing to the system, and the option to opt out of the automatic enrolment. Secondly, the communication among the SII, the TGR, AFPs, and the Superintendence of Pensions (SP) was smooth, and the planned timing of exchange of information was met. The Superintendence and the SII received few complaints about the process.

The process of preparing and implementing the automatic enrolment program for the self-employed revealed a number of challenges faced by the Superintendence of Pensions and highlighted potential issues to be improved in this process. The main challenges and issues identified by the Superintendence of Pensions are listed below:

### *At the preparatory stage:*

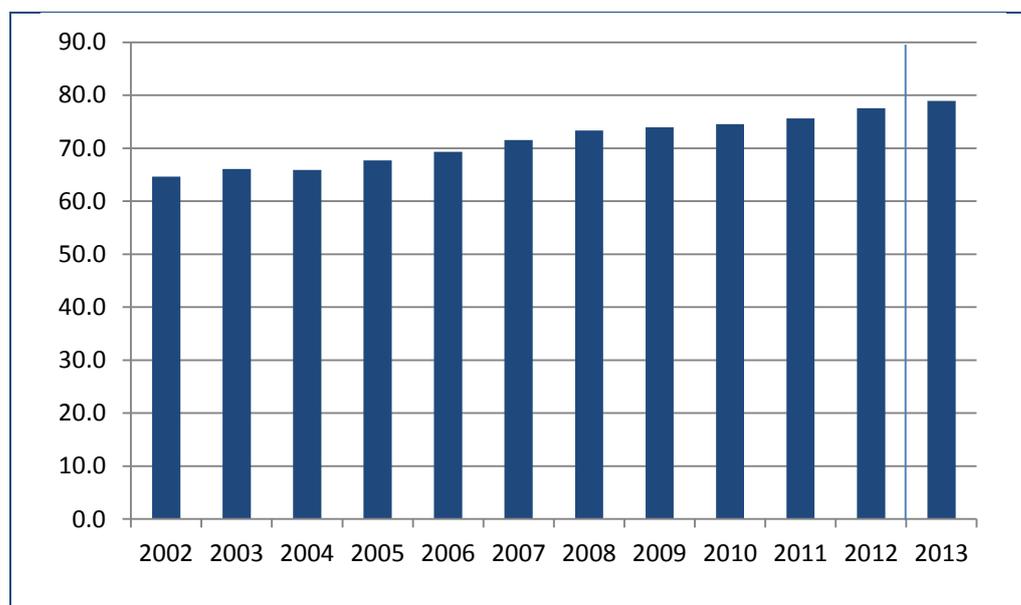
1. Designing a system that allows enforcing the payment of contributions by self-employed workers. This challenge was overcome by using the tax declaration process already in place for the payment of contributions, and undertaken yearly by the SII.
2. Developing all secondary legislation. The Superintendence of Pensions elaborated on and introduced into the new legislation procedures for the affiliation of the self-employed into the pension system, the collection of contributions, and the legal actions to be taken in case where the amount withheld is insufficient to cover the total amount of contributions, among others.
3. Developing the information technology system. This allows (i) all the institutions involved in the process (SP, SII, TRG, AFPs, and IPS) to report and exchange information and (ii) for SII to compute the amount that each self-employed worker has to pay into the pension system.
4. Informing the self-employed about the process, emphasising the rights and duties that the automatic enrolment imposes on them.
5. Expanding further coverage of self-employed workers. The provisions of the new legislation cover only self-employed workers that are subject to Article 42 No. 2 of the Income Tax Law. The disadvantage of the current system is that self-employed workers for whom it is difficult to determine their income and oversee their contributions were left out of the automatic enrolment programme. These are agricultural and fishery workers and micro entrepreneurs, among others. Participation for this category of workers remains voluntary, and, consequently, the next challenge for the Superintendence of Pensions will be to incorporate them into the pension system.

### *At the implementation stage:*

1. Monitoring the efficiency of the automatic enrolment programme. Consideration should be given to the necessity to define an additional agenda for the exchange of information between the SII and the Superintendence of Pensions, which would allow the pension supervisory authority to continuously follow/monitor the effectiveness of the automatic enrolment program.
2. Deliberating on the need to extend the timeline for operation of the automatic default-in option. The Chilean Government is evaluating the need to extend the default period of the automatic

enrolment due to the rather high share of self-employed workers who expressed their desire not to contribute to the system. This measure would prevent a significant drop in incomes when in year 2015 the program becomes mandatory for the self-employed and contributions will be made on the basis of 100% of the covered earnings.

**Figure A2. Chile: Coverage of private pension plans before and after the introduction of the automatic enrolment programme for the self-employed workers<sup>61</sup>**



*Note:* Coverage is measured as a percentage of the working-age population (aged 15 to 64). Data refer to all private pension plans. Numbers may include multiple counting, as individuals may be members of several pension plans (i.e. having assets or accrued benefits in a plan). The blue line represents the introduction of automatic enrolment.

*Source:* OECD Global Pension Statistics.

<sup>61</sup> According to the OECD Pension Outlook 2014, Chapter 4, ‘For Chile, the impact of the automatic enrolment of self-employed people does not translate into higher coverage rates when the working-age population is used as the denominator ... 304,011 self-employed individuals, representing 32% of those affected by the policy, automatically contributed to the pension system in 2013 based on their self-employment earnings of 2012. Only 11% of them did not have a defined contribution (DC) account before and became new members of the pension system (all the others were already members of the pension system). In addition, 60% had already contributed to the pension system as employees during the year, so their contributions as self-employed came to fill the gap of contributions for the total income earned (as employee and self-employed).[i] Preliminary data show that 254,295 self-employed individuals contributed in 2014 for their self-employment earnings of 2013. The objective of the automatic enrolment programme in Chile is therefore more to increase the number of people contributing permanently and for their total earnings to the pension system rather than to increase coverage (which already stood at around 77% of the working-age population before the reform thanks to the compulsory enrolment of employees).’

[ii] Data on self-employed individuals who contributed in 2013 are preliminary and based only on individuals who actually filled in a tax statement (Formulario 22). Those whose tax declaration is done by default are not included in these statistics.

## ITALY

### Box 3. Key features of the automatic enrolment programme in Italy

#### Implementation timetable

An automatic enrolment system into pension funds was introduced by law in Italy at the end of 2005 and implemented in the first half of 2007 (a year earlier than previously planned, due to the decision taken in late 2006). The automatic enrolment programme offered a choice for the private sector workers to transfer flows of severance pay provision – known as *Trattamento di Fine Rapporto* (TFR) – into a pension fund or to keep their rights regarding the TFR unchanged.<sup>62</sup> By default, in the event workers do not make an active choice within a six-month period, the TFR would be transferred to the pension fund (usually chosen by labour agreements).

#### Covered employees

In the first six months of implementation, the system applied to all current private sector workers aged 18–64. Afterwards, the programme has continued to apply to the new cohorts of private sector employees.

#### Pension schemes

The pension fund receiving the TFR is generally chosen by labour agreements. Also, a default fund was set up with the Social Security agency – INPS – for workers whose labour contracts did not provide for a fund.

#### Contributions

The flow of TFR is set by legislation at 6.91% of gross salary, net of the residual percentage that is not accrued in favour of the employees. The TFR is accrued by employers as a debt (deferred salary) for their employees and is paid on the termination of employment (regardless of voluntary resignation, dismissal, or retirement). The TFR carries an annual yield which is set by law at 1.5% plus three-quarters of inflation rate.

#### Opt-out options

Individual workers have a six-month period to decide whether to stay or opt out from the automatic enrolment system, in which case they would keep the same rights regarding the TFR as previously. In case of no choice being made, employees will be participating by default in the system, with the TFR flows being transferred into an occupational pension fund. Besides, signing a form where the selected option had to be indicated was made compulsory for all employees.

#### Main supervisory authority

The Italian Pension Funds Supervision Commission (COVIP), <http://www.covip.it/>

In Italy, the complementary private pension system, which supplements public pension provision, includes contractual pension funds (*fondi pensione negoziali*), open pension funds (*fondi pensione aperti*), and pre-existing pension funds (*fondi pensione preesistenti*), as well as individual pension plans provided by life insurance companies (PIPs). All these plans are formally recognised as having the purpose of supplementing public retirement income, and therefore granted significant tax allowances.

The automatic enrolment programme was implemented in 2007 for all employed workers in the private sector as a part of a major reform process that aimed to improve participation in the occupational

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<sup>62</sup> Companies with 50 or more employees were mandated to transfer to the Treasury the TFR flows that employees decided not to pay to the pension fund (thus keeping unchanged their rights regarding the TFR). In 2008, the TFR flow paid to the Treasury totalled 5.3 billion Euros.

private pension funds (considered low<sup>63</sup> compared to other countries) and to increase saving rates to offset the reduction in the benefits from social security resulting from the pension reforms conducted in the 1990s.<sup>64</sup> The reform measures also aimed to foster participation in voluntary personal pension plans by adoption of tax incentives.

The automatic enrolment system has required flows of severance pay (or deferred salary) contributions – known as *Trattamento di Fine Rapporto*<sup>65</sup> (TFR) – to be paid into a pension fund, with individual workers then having a six-month period in which to opt out or decide to continue to invest contributions in the TFR. If an employee chooses to stick with the previous TFR regime, in the case of a ‘small company’,<sup>66</sup> the TFR will remain within the company, while for ‘larger firms’<sup>67</sup> these flows would be transferred to an account held with the Social Security agency (INPS) in the name of the Treasury of Italy. A worker, choosing to keep the TFR within the company, can at any time decide to transfer TFR contributions to the occupational pension fund, but once the choice is made it is not possible to reverse it (the decision is irreversible).

The new system also introduced a default option, in case private sector workers do not make an active choice within the six-month period – by default, private sector workers were enrolled in new investment options created in each of the existing contractual pension funds, managed at the industry or regional level, and established by collective agreements. The law required these default<sup>68</sup> investment options to be conservative: provide guaranteed returns similar to the revaluation rate of the TFR.

The private pension system is overseen by the pension supervisory authority COVIP. To support the introduction of the automatic enrolment programme, COVIP had to redraft all secondary regulations to make them compatible with the new law. Special emphasis was given to the regulations governing the provision of information to actual and potential members. A new, comprehensive information document was set up and a new synthetic indicator of all charges was introduced.

COVIP was responsible for setting up the licensing procedures and for granting the licenses to all pension funds participating in automatic enrolment (those that were already operating in the market and those that were newly created). All pension providers (contractual pension funds and financial and insurance companies providing open pension funds) offering products in relation to automatic enrolment were required to re-organise their offer of pension plans in line with the new legislative requirements and prepare all of the documents necessary for licensing approval by COVIP. Due to changes in the implementation timetable,<sup>69</sup> both COVIP and the financial entities had to rush against time. The pension

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<sup>63</sup> At the end of 2003, about 12% of the employed workforce (2,6 millions) participated in the pension funds (COVIP).

<sup>64</sup> The Italian pension reforms in the 1990s substantially reduced the benefits from social security for most workers, with the reduction being most dramatic for the young and self-employed workers (Bottazzi *et al.*, 2011).

<sup>65</sup> The TFR represents a fraction of employees’ wage (approximately equal to one month salary) that is accrued by employers as a debt to their employees and is paid back to employees when they leave their employment (voluntarily or not). The annual rate of return is established by law and is partially indexed to inflation (1.5% plus  $\frac{3}{4}$  of the inflation rate).

<sup>66</sup> Company with no more than 50 employees. More than half of private sector workers are employed in such firms (see Rinaldi, 2011).

<sup>67</sup> Company with more than 50 employees.

<sup>68</sup> The default had to guarantee the return of the contributions paid plus a ‘yield’ comparable to the revaluation of the TFR. This is set as 1.5% plus  $\frac{3}{4}$  of the inflation rate.

<sup>69</sup> Implementation of the automatic enrolment programme was initially planned for the first half of 2008, but the Parliament decided to anticipate the programme and implement it in the first half of 2007.

providers hurried to review their products and to prove their compliance with the new regulatory requirements with a view to obtaining authorisation (license) by the time the automatic enrolment actually started.

COVIP was responsible for reviewing all applications received and granting approval and new licenses in time to all providers participating in the automatic enrolment programme. This included checking compliance with the requirements, set by the law, of the new investment option<sup>70</sup> that had to be introduced by all pension schemes in order to qualify for receiving new members through the automatic enrolment mechanism.

As Rinaldi (2011) discusses, the success of the automatic enrolment campaign in Italy was more muted than in New Zealand. At the end of 2011, the total membership in supplementary pension plans was about 5.5 million workers.<sup>71</sup>

### **Main implementation challenges of the automatic enrolment programme in Italy**

In the first half of 2007, the reform involved about 12.2 million workers (all the employed workers in the private sector, regardless of their age, and several hundreds of thousands companies). After this first stage, the coverage rates in the private pension system rose from 8.5 % in 2006 to 11.9 % in 2007. This increase was not as high as envisaged. Subsequent increases (up to 15.9% in 2013) were mostly due to individual new adhesions additions that were fully voluntary and not related to the automatic enrolment mechanism. After 2007, there have been very few new adhesions to occupational pension plans qualifying for automatic enrolment. Most of these new adhesions also continued to be of an explicit nature. Indeed, the automatic enrolment mechanism, although in principle still in place in Italy for new employed workers of the private sector, is not playing any significant role in the system anymore.

To explain the limited success of the automatic enrolment reforms in Italy – a relatively low number of workers automatically enrolled into the new system – both structural and implementation factors were identified by Rinaldi (2011).

Among the structural factors, it was argued that firstly disposable income for the average Italian worker is quite low and that mandatory payroll tax rates are high – 33% for employees, leaving little room for making additional contributions. Also reformed public pensions (e.g. linking retirement age to life expectancy gains, increasing contributions for the self-employed) continue to provide, although reduced, replacement rates that are higher than those granted in many OECD countries. Secondly, as a saving vehicle TFR may be seen as a strong competitor, especially when compared to the conservative default investment option introduced as a part of the automatic enrolment system. The TFR provides a risk-free rate of return, although low in nominative terms, it is positive in real terms in the current low-inflation environment. Thirdly, the TFR has been seen historically as a source of low-cost financing for the small employers. Considering the tight relationships established in ‘small companies’ between employers and employees, the employers might have exerted some pressure to keep the TFR flows within the company and discourage employees against directing TFR flows to the pension funds. Finally, the 2008 economic and financial crisis negatively affected the financial positions of small firms, tightened liquidity constraints of potential members, increased risk aversion, and led to general loss of confidence towards financial institutions.

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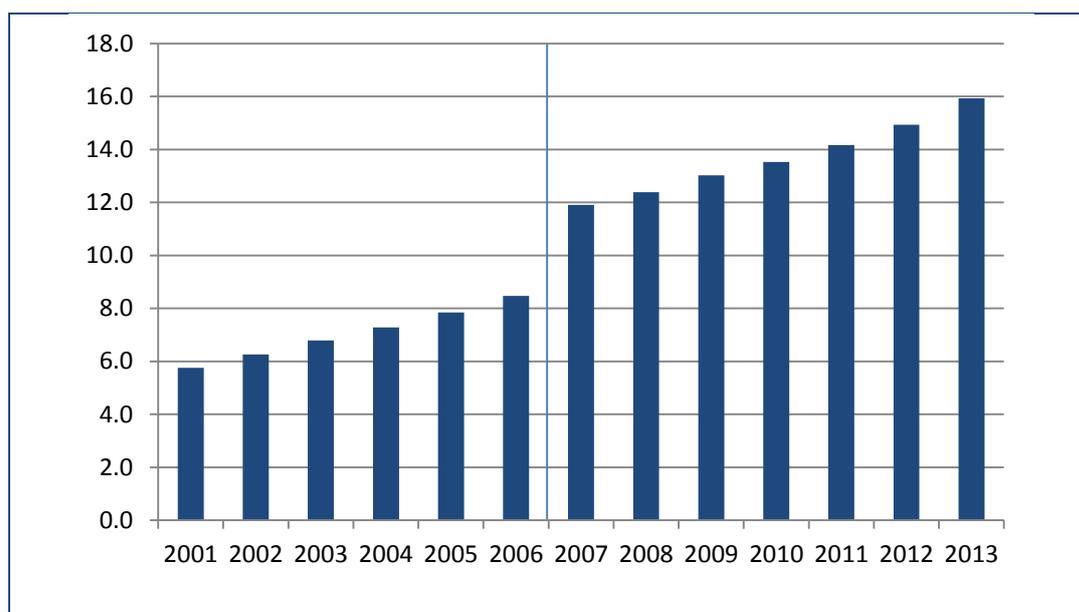
<sup>70</sup> This investment option has to offer a guaranteed return, similar to that offered by the so-called TFR (see below).

<sup>71</sup> At the end of 2011, the Italian pension plans accumulated funds (resources) of about 90.8 million Euros, about 5.7% of GDP.

Also, apart from structural factors, a number of implementation issues were identified. First of all, the communication campaigns and education programmes promoted by public authorities, accompanying the major reform programme, such as automatic enrolment, were deemed insufficient (and uneven), considering the low level of financial literacy of Italian workers (see also Fornero and Monticone, 2011) and lack of pension awareness. The decision taken to move forward the implementation schedule of the programme by one year reduced the diffusion time and the possible effects of the communication campaign: the information campaign run by the Ministry of Labour was mainly carried out only during the six-month period of the automatic enrolment programme.

Also, as argued again by Rinaldi (2011), the way the default option was designed – in terms of both contribution arrangements and investment profile – may be seen as not optimal for most workers. Under the automatic enrolment programme, only TFR flows are transferred to the pension fund, and not the additional employer contributions that are provided for by labour contracts (1–1.5% of gross wages, according to the contract, conditional on the payment of contributions by employees). Also conceiving the conservative investment option, with a single investment profile that could hardly perform better than the TFR, did not take into consideration the needs of the workers in different age categories (according to the life-cycle model).

**Figure A3. Italy: Coverage of private pension plans before and after the introduction of automatic enrolment<sup>72</sup>**



*Note:* Coverage is measured as a percentage of the working-age population (aged 15–64). Data refer to all private pension plans. Numbers may include multiple counting, as individuals may be members of several pension plans (i.e. having assets or accrued benefits in a plan). The blue line represents the introduction of automatic enrolment.

*Source:* OECD Global Pension Statistics.

<sup>72</sup> It should be noted that in Italy, coverage rate of 15.9% in 2013 was achieved mostly due to individuals joining private pension plans fully voluntary and not related to the automatic enrolment mechanism.

## NEW ZEALAND

### Box 4. Key features of the KiwiSaver automatic enrolment programme in New Zealand

#### Implementation date

New Zealand introduced the automatic enrolment programme known as KiwiSaver on 1 July 2007. KiwiSaver is a national voluntary work-based saving scheme, administrated by the Inland Revenue Department (IRD)<sup>73</sup>.

#### Covered employees

Employees are automatically enrolled in the KiwiSaver scheme when starting their first job or when switching jobs if they do not yet belong to KiwiSaver and are eligible to join. Main eligibility conditions include: to be aged between 18 and 64, be a New Zealand citizen or resident, and be in employment for more than four weeks. Where employer linked KiwiSaver schemes may have defined membership criteria and new members are not eligible to join, employees can join a KiwiSaver scheme of their choice or the IRD will allocate them to a default KiwiSaver scheme, allowing three months to select their own scheme. If no active choice is made during the three months, the IRD will confirm enrolment in the default scheme.

Individuals under the age of 18, self-employed, and non-working individuals<sup>74</sup> can join the programme on a voluntary basis by directly contacting a KiwiSaver provider.

#### Exemptions

Under certain circumstances, employers may apply for exemption from the KiwiSaver automatic enrolment requirements to the Financial Market Authority (FMA). Some very large employers with existing occupational private pension schemes (fulfilling specific requirements/criteria<sup>75</sup>) have been granted exemption from automatic enrolment.

#### Pension scheme

KiwiSaver schemes are defined contribution in design, are operating under trust deeds, and are offered and managed by KiwiSaver providers.<sup>76</sup> Any financial services companies (such as banks, insurance companies, investment managers) can register for KiwiSaver as long they meet certain requirements (including permitted withdrawals, transferability, fees set at reasonable levels, etc.). Trustees can manage the investments of the KiwiSaver scheme in-house or appoint/contract an investment (fund) manager responsible for investing some or all scheme assets. The scheme assets must be held separately by a trust from the assets of the sponsoring employer. Individuals can only have one KiwiSaver account during their working life.

KiwiSaver schemes are fully portable, allowing members to transfer their balances to a different scheme when they join or change employment.

Most KiwiSaver schemes have several investment funds – conservative, moderate, balanced, growth, and aggressive. Members may switch accounts to a different provider and funds (with no charges). There are no government guarantees on KiwiSaver accounts.

#### Contributions/benefits

Employees can choose to contribute either a default rate of 3%<sup>77</sup> or an optional rate of 4% or 8% of gross salary or wages, deducted directly by the employer. The employers also make a matching compulsory contribution of at least 3% of the employee's gross salary.<sup>78</sup> The government contributes an initial payment of NZD 1,000, which is offered to

<sup>73</sup> <http://www.ird.govt.nz>.

<sup>74</sup> For self-employed or unemployed persons, there is no defined contribution rate; a regular contribution amount is agreed with a selected provider. Tax credit is also available to the unemployed and the self-employed.

<sup>75</sup> 'Exempt' schemes must comply with KiwiSaver contribution requirements and be available to all new members (although they do not qualify for government subsidies).

<sup>76</sup> A KiwiSaver provider is an organisation that provides a KiwiSaver scheme and is responsible for managing members' savings in the scheme, <http://kiwisaver.govt.nz/providers>.

<sup>77</sup> As of 1 April 2013, individuals and employees contributions were raised to 3% from 2%, which will now be a default rate for new members.

<sup>78</sup> Similarly, as of 1 April 2013 employer contributions were raised to 3% from 2%.

all members.<sup>79</sup> In addition, the government provides flat subsidies and contributes via an annual 'member tax credit' (MTC) for contributing members over 18 (up to a maximum of NZD 521.43 for employee's annual contribution of NZD 1042.86). For work-based KiwiSaver schemes, the Inland Revenue collects KiwiSaver members' and employers' contributions and transfers them to KiwiSaver providers.

Employees can take 'contribution holidays' of between three months up to five years at any time after 12 months of contributions; and in the first year of participation only in the case of significant financial hardship (to be sanctioned by the IRD).

Withdrawals are possible in specific circumstances, such as the purchase of a first home (after three years of contributions) or under the hardship provisions/permanent immigration. KiwiSaver accumulated balances (capital) are locked-in until superannuation age (currently 65 years), or five years after members joined a KiwiSaver scheme, whichever is later.

There is no mandatory annuitisation at retirement; benefits are usually provided in the form of lump sums.

#### **Opt-out option**

Employees have the possibility to opt-out within a window between two and eight weeks when starting a new job or changing employment. Employees must inform their employers and the IRD about this decision. Having opted out, the employees cannot be re-enrolled until they change jobs.

#### **Main supervisory authority**

Financial Markets Authority (FMA), <http://www.fma.govt.nz/>

On 1 July 2007, New Zealand introduced an automatic enrolment programme, known as KiwiSaver. When setting up the KiwiSaver automatic enrolment scheme, the government pursued a three-fold objective: (1) to offer better retirement opportunities to New Zealanders; (2) to encourage national savings and local capital markets development; (3) to moderate/reduce the fiscal pressure of the ageing society (prudent debt and fiscal long-run sustainability).

The KiwiSaver scheme complements the public universal pension programme - New Zealand Superannuation, funded on a pay-as-you-go basis from general revenue<sup>80</sup> and voluntary employment-related and personal private superannuation schemes.

Two main types of KiwiSaver schemes can be distinguished:

- 'retail schemes' for members and the participating employer established by a fund manager who appoints a trustee;
- schemes for specific groups of people, established at either company or industry level, or other defined groups.

The KiwiSaver scheme is open to all individuals and there are three main ways to join the KiwiSaver scheme: (1) through automatic enrolment when starting new employment or changing employment;<sup>81</sup> (2)

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<sup>79</sup> Contributing member aged 18 or older.

<sup>80</sup> The public pension system provides an important part of retirement income security – about 33–43% of the national average after-tax ordinary-time weekly wage (Crossan *et al.*, 2011).

<sup>81</sup> The proposal to automatically enrol all workers was again recently suspended by the government. The government announced that it will proceed with a full-scale automatic enrolment programme when sufficient budget surpluses are built to meet its estimated fiscal cost of up to NZD 514–550 million. The higher number includes costs over four years, including the initial government payment to new members of NZD 1,000 and on-going annual member tax credits. New Zealand Savings Working Group made a recommendation against making KiwiSaver compulsory in view of different possible preferences by individuals to save for retirement. It was considered that not everybody would benefit from mandatory KiwiSaver membership –

opting in through an employer; and (3) contracting directly with a KiwiSaver scheme. This section focuses on the automatic enrolment process and its supervisory aspects.

### KiwiSaver membership

Since the introduction of the programme, KiwiSaver membership continues to grow. With about 2.15 million members as at 30 June 2013, the KiwiSaver funds amounted to around NZD 16.6 billion, representing about 19% of the managed funds market.<sup>82</sup> About 61% of members joined the scheme proactively (mainly due to government and employer provided financial incentives) and another 39% were automatically enrolled. The opt-out rate for the system has been around one-third. Around 33% of members who participated in the KiwiSaver system stayed with the default pension schemes. KiwiSaver scheme has undergone a number of design changes and is expected to continue to evolve.

**Table A3. KiwiSaver membership, enrolment and opt-out (2008–2013)**

	2008	2009	2010	2011	2012	2013
Membership in KiwiSaver (net)	716,637	1,100,540	1,459,942	1,755,932	1,970,000	2,150,000
Individuals who opted out and closed accounts	138,806	221,045	259,554	249,549	255,935	249,872
% of eligible population	22%	29%	38%	44%	49%	53%
% KiwiSaver members opted in (via employer and provider)	64%	61%	63%	63.2%	62%	61%
% members joined through auto-enrolment	36%	39%	37%	36.8%	38%	39%
% of Opt-out (from those who auto-enrolled)	30%	34%	N/A	28%	N/A	N/A

Source: Inland Revenue, KiwiSaver Evaluation Annual reports (2008–2013).

### Regulation and supervisory oversight of KiwiSaver schemes

The main regulatory responsibility for the supervision of KiwiSaver schemes lies with the Financial Markets Authority (FMA)<sup>83</sup> according to the Financial Market Authority Bill 2011. The FMA is in charge of the registration and on-going supervision of KiwiSaver schemes, focusing on competence and conduct by KiwiSaver scheme providers. The FMA also regulates private pension superannuation schemes, security companies, financial advisors and brokers, trustees, and issuers, and is soon expected to regulate auditors.

The supervisory regime for KiwiSaver relies on registration and the ‘prudent person requirement’ for trustees to act in the best interests of the members.

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e.g. people with low incomes, those with large mortgages, or those already in other superannuation schemes would be compelled to reduce their essential spending needs to contribute to KiwiSaver.

<sup>82</sup> Inland Revenue, KiwiSaver Evaluation Annual Report, from July 2012 to June 2013.

<sup>83</sup> <http://www.fma.govt.nz/>. The FMA replaced the Securities Commission and took over some responsibilities from the Ministry of Economic Development, in particular the regulatory functions of the Government Actuary and some roles of the Registrar of Companies.

Along with the FMA, two other authorities develop regulation for KiwiSaver schemes:

- the Inland Revenue Department, KiwiSaver central administrator, in charge of administrative regulation, and
- the Ministry of Business, Innovation, and Employment, responsible for developing the regulatory framework of KiwiSaver.<sup>84</sup>

#### *FMA supervisory approach*

Although the supervisory approaches towards KiwiSaver schemes are very similar to those applied to other registered superannuation schemes (KiwiSaver has been incorporated in the existing supervisory regime that applies to other superannuation schemes), a number of special regulatory requirements and targeted supervisory approaches towards KiwiSaver schemes can be identified. Given the growing (systemic) importance of KiwiSaver schemes in the New Zealand financial landscape, the government has recently adopted a number of measures directed at reinforcing the regulatory regime governing registered pension schemes (including superannuation and KiwiSaver schemes) and tightening their supervisory oversight. These regulatory measures aim to improve the overall operation and transparency of the financial sector and improve public confidence after the global financial crisis. A number of them however specifically covered KiwiSaver schemes, promoting more efficient operation, better disclosure and governance, and ensuring that the schemes are run in the best interests of KiwiSaver members.

#### *Surveillance/monitoring compliance (with KiwiSaver Act 2006)*

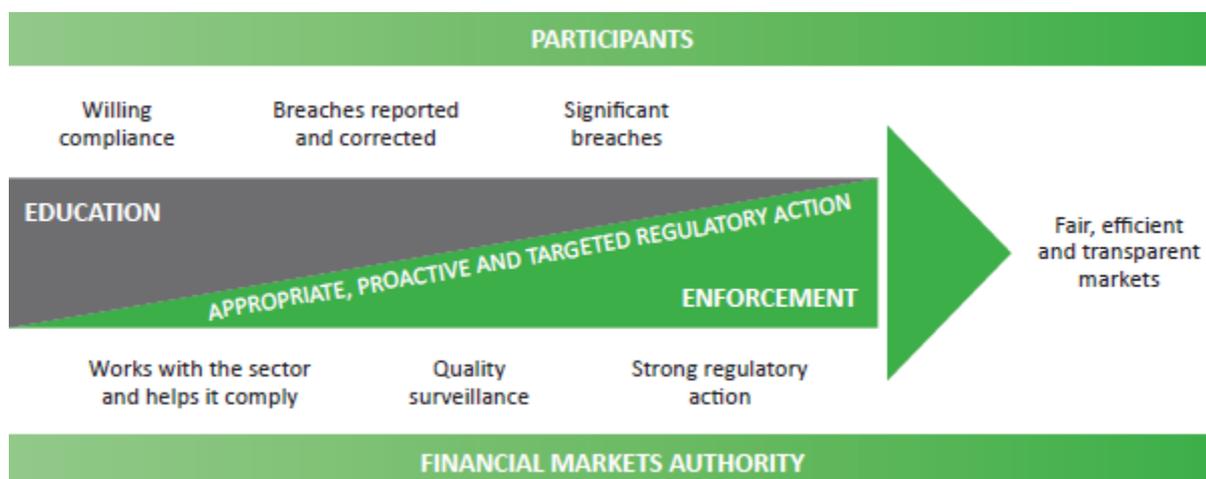
The FMA strategic document (see FMA's Compliance Focus for 2013), outlining key areas for monitoring and surveillance activities in 2013, identified control over KiwiSaver providers to be one of the central priorities for the authority, aiming to ensure that KiwiSaver providers are compliant with regulatory standards and act bearing in mind consumers/members interests. Special focus is placed on the ongoing monitoring of KiwiSaver scheme trustees, considering their critical importance for the efficient operation of the schemes. The FMA is currently working on issuing guidance on the authority's expectations of trustees of KiwiSaver schemes.

The FMA compliance strategy follows a 'top of the cliff approach', with focus placed on raising standards by market participants. The FMA aims to foster culture through education for market participants to raise standards of good conduct, ethics, and integrity, ensuring that market participants manage and monitor compliance and readily share information with the FMA.

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<sup>84</sup> E.g. KiwiSaver periodic disclosure requirements, KiwiSaver governance requirements; KiwiSaver annual reporting obligations, KiwiSaver default provider arrangements, <http://www.med.govt.nz/>.

**Figure A4. FMA compliance strategy**



In cases where encouragement has proved ineffective or is considered inappropriate under the circumstances of a particular matter, the FMA may resort to the use of statutory powers. There have also been changes towards liability provisions for directors and issuers, with a shift to civil remedies and compensating the investors.

#### *Enforcement*

When the FMA considers that a KiwiSaver scheme is not operating in compliance with legal requirements and that the security of benefits is inadequate, it can take a number of measures:

- require the trustees or administration manager to provide all information that the FMA may specify;
- require the trustees to provide members with all specified information;
- request that the scheme must be run in a specific way (provided that this would not be contrary to trust deed provisions);
- issue warnings to providers and warnings to caution investors against unacceptable KiwiSaver practice;
- issue management banning orders and monetary penalty;
- remove/cancel registration;
- order the winding up of the scheme.

All decisions to take enforcement measures (including civil or criminal actions) are based on the principles of fairness and proportionality. The FMA applies a risk-based approach to both surveillance and enforcement of supervisory activities to ensure compliance with the KiwiSaver 2006 provisions.

The section below reviews the main supervisory activities/areas of intervention with respect to the operation of KiwiSaver schemes.

## **The main areas for supervisory interventions with respect to the KiwiSaver schemes' operation**

### *Registration/licensing*

Any organisation that would like to provide KiwiSaver schemes needs to obtain a certification and to sign a scheme provider agreement (SPA) with the IRD. All KiwiSaver schemes should be registered as financial service providers and be members of a dispute resolution scheme. The FMA holds a register and registers those KiwiSaver schemes that meet the requirements under the KiwiSaver Act. It also registers default schemes and establishes whether an employer is exempt from automatic enrolment requirements.

In 2011, the Securities Trustees and Statutory Supervisors Act set up a licensing regime for trustees, including for trustees of retail KiwiSaver schemes. All independent trustees of retail KiwiSaver schemes must be licensed by the FMA. A licence may be granted for up to eight years. The changes brought the regulation of trustees of retail KiwiSaver schemes into line with the licensing regime applicable for other types of managed funds. They also considerably strengthened the supervisory oversight over trustees of retail KiwiSaver schemes. Previously, almost anybody could be a trustee of a KiwiSaver scheme with the only restriction being 'independent' with the exception the default funds.

Furthermore, to achieve better protection of investors' interests, the new licensing regime and supervisory requirements were introduced for registered schemes (including KiwiSaver) and other financial entities in 2013. A new Financial Markets Conduct (FMC) Act that came into force<sup>85</sup> in September 2013 requires all fund managers, including their activities as issuers and managers of KiwiSaver schemes, to be licensed by the FMA starting from April 2014. The FMA will now have the power to set the licensing conditions for scheme managers, which will cover care, diligence, skill, and finance resource requirements. There will be a transitional period for KiwiSaver trustees and managers to comply with new licensing requirements.

Before the finalisation and approval of the new law, the FMA has initiated working with the fund managers to increase their awareness of the coming changes and encouraging them to strengthen their operations, including internal controls, monitoring, and governance practices to be prepared for the new licensing requirements. The FMA is expected to issue a guidance note summarising the main requirements/expectations for fund managers to follow and comply with new legal requirements.

### *Governance and management of KiwiSaver schemes*

In 2011, important changes were introduced to enhance the governance and management of retail KiwiSaver schemes. The KiwiSaver Amendment Act 2011 set out specific governance requirements to retail (non-restricted) KiwiSaver schemes.<sup>86</sup> The retail KiwiSaver schemes were required to restructure the governance of their schemes and to have a manager who is the issuer of membership interests for the purposes of the Securities Act 1978, and a licensed external manager. The new provisions require fund managers of retail KiwiSaver schemes to act in the best interests of investors and make them primarily responsible for the accuracy of their prospectus, investment statement, and advertisements. All KiwiSaver managers are also required to belong to an independent dispute resolution scheme. The changes also made (licensed external) trustees formally responsible for the supervision of fund managers, requiring that they control compliance with trust deeds and their other responsibilities.

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<sup>85</sup> The new law repeals the Securities Act 1978, Securities Markets Act 1988, and incorporates and amends other relevant legislation.

<sup>86</sup> The changes do not apply to non-retail Kiwi-saver schemes, i.e. employer-based and some vocational based schemes – or non-KiwiSaver superannuation schemes. Non-retail KiwiSaver schemes represent only around 2% of the market.

The new responsibilities of fund managers include:

- issuing annual reports (after consultation with trustees);
- submitting annual reports to the FMA;
- issuing annual member statements;
- authorising withdrawals, with the exception of withdrawals requested on the grounds of significant financial hardship or serious illness;
- issuing the main part of transfer communications (after consulting trustees) and seeking FMA consent for transfers between schemes;
- making amendments to trust deeds (trustees must still issue compliance certificates);
- notifying changes to the KiwiSaver schemes register;
- providing scheme-related information upon request from members and the FMA.

All reorganisation to the governance structure of non-restricted or retail KiwiSaver schemes was to be completed by 30 September 2012.

As a part of the licensing and risk-based monitoring process, the FMA encourages the KiwiSaver issuers to act with integrity in their dealings with scheme members and market participants and to review the robustness of their operational arrangements, in particular governance structure, controls, and monitoring.

### *Reporting and information disclosure*

Reporting and information disclosure by KiwiSaver schemes are seen as other key areas for supervisory control of the automatic enrolment process in New Zealand. The high quality of financial reporting is regarded as an essential element for building public confidence and trust in the financial sector and promoting fair, efficient, and transparent markets. The FMA looks on the KiwiSaver scheme as an investment vehicle, and therefore needs to ensure that investors are well informed and that the investment risk profile is properly disclosed in the available information. The FMA works closely with other public agencies to ensure that the released information helps scheme members to better understand the risks associated with investment and to make informed decisions.

The KiwiSaver Periodic Reporting Regulations were introduced on 1 July 2013 to further improve the visibility and transparency of information about KiwiSaver schemes and to achieve better comparability of KiwiSaver schemes.

Under the new KiwiSaver disclosure rules, KiwiSaver providers of retail KiwiSaver schemes<sup>87</sup> are required to publish on their websites quarterly and annual reports for each of their investment funds. The information has to be presented in a simple, standardised format. The reports will include information on the funds' performance and returns, fees and costs, asset allocation and portfolio holdings, liquidity and liability, and information on key personnel, along with any conflicts of interest. KiwiSaver providers of

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<sup>87</sup> Twelve restricted (employer-sponsored and industry related) KiwiSaver schemes are exempt from these Regulations.

non-restricted and retail KiwiSaver schemes are required to send their quarterly and annual disclosure statements to the FMA,<sup>88</sup> and publish disclosed information on their website.

The FMA closely observes that all KiwiSaver schemes submit disclosure statements for each of the funds to the authority and make them publically available on their websites in a timely manner in an understandable format for the members. The FMA is also currently considering measures to achieve a high level of compliance with the regulation, in particular through issuing additional guidance<sup>89</sup> and ongoing compliance monitoring. In the past, the FMA has already issued warnings and taken enforcement actions against inadequate and incomplete disclosure in promotional material and advertisements.

### *Monitoring of fees and charges*

When introducing the KiwiSaver programme, the government pursued the goal of establishing a low-cost, work-based saving scheme both for members and for employers. Fees<sup>90</sup> were identified as the largest expenditure category, having an impact on the size of scheme assets at the end of the financial year.<sup>91</sup>

Monitoring fees and assessing if the fees are not ‘unreasonable’ is another area of special attention and control by the FMA. The requirement for fees not to be ‘unreasonable’ set under the KiwiSaver Act<sup>92</sup> is implied for all trust deeds, and therefore the trustees are expected to monitor that KiwiSaver schemes comply with their obligations set under the trust arrangements. Any increase in fees should be reported to the FMA.

The FMA has issued several guidance notes covering KiwiSaver performance fees,<sup>93</sup> providing guidance to trustees and establishing criteria against which the FMA assesses whether performance fees are considered ‘unreasonable’ (i.e. fees are required to be defined in a transparent form, with no fund costs or fees directly charged to the fund, and a fee structure to show two types of fees – a fee to cover administrative costs, not dependant on the size of funds, and a management fee where appropriate).

In addition to supervisory efforts to monitor KiwiSaver fees, the KiwiSaver fee calculator is available on-line on the *Sorted* website<sup>94</sup> administrated by the Commission for Financial Literacy and Retirement Income. The website provides fees comparison charged by KiwiSaver providers as well as presenting other guidance/information materials on the KiwiSaver programme.

### *KiwiSaver sales and distribution*

Mindful of the growing systemic importance of the KiwiSaver schemes, the FMA monitors and acts decisively against misconduct in KiwiSaver sales and distribution practices. Particular attention is directed to the monitoring of entities providing KiwiSaver through ‘information-only services’. The FMA’s role also consists of requiring providers/trustees to monitor the sales practices and pricing activities of schemes, and preclude any inappropriate member incentives.

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<sup>88</sup> Providers of restricted KiwiSaver schemes are not required to produce these disclosure statements.

<sup>89</sup> <http://www.fma.govt.nz/help-me-comply/kiwisaver/guidance-notes/>.

<sup>90</sup> Administrative fees, investment management fees, and trustee fees.

<sup>91</sup> FMA, KiwiSaver report for the year ended 30 June 2012.

<sup>92</sup> This provision does not however go against general efforts and policies taken by the public authorities to encourage greater competition among KiwiSaver providers regarding pricing and the services offered.

<sup>93</sup> <http://www.fma.govt.nz/help-me-comply/kiwisaver/guidance-notes/>.

<sup>94</sup> <https://www.sorted.org.nz/calculators/kiwisaver-fees>.

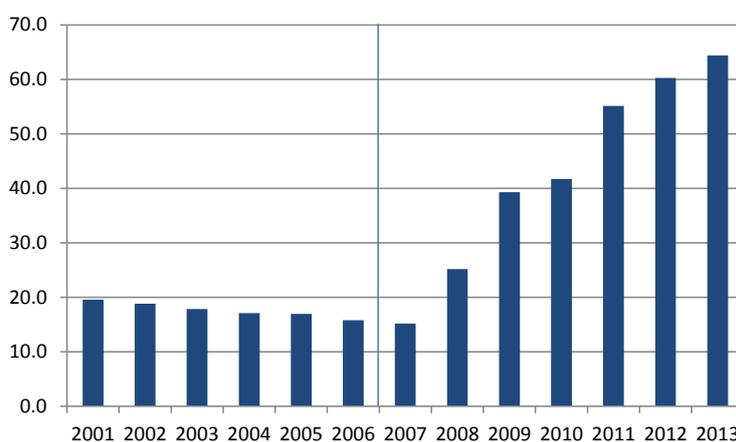
In 2012, the FMA issued a guidance note on KiwiSaver sales and distribution procedures, also containing some of the most flagrant forms of market manipulation and false or misleading information and the supervisory actions that would be taken against such practices. The FMA is closely monitoring how distributors follow the guidance and adjust their sales/distribution practices to the stated requirements.

Issues with transfers were also identified, such as delays in transferring employees and employers' contributions to the providers, and voluntary transfers of funds from one provider to another (there is a legal requirement for transfers to be completed within 35 days). Providers were addressing this issue with bilateral discussions and workshops organised by the FMA.

The FMA is also concerned with whether members have access to financial advisors when considering transfers between KiwiSaver schemes or switching funds. This issue was addressed in the recent guidance produced by the FMA in addition to the investigations that are being launched into claims of misconduct by authorised financial advisers (AFA), including in relation to the advice provided on particular KiwiSaver schemes. In the case where the financial adviser has breached the FMA Act, the FMA may suspend or cancel the advisor's authorisation. As stated by the FMA,<sup>95</sup> if previously the focus has been placed on education and engagement with the AFAs, the current approach will consist of requesting more proactive and willing compliance with the legislative requirements.

To respond to the evidence of bad practice and to provide protection to consumers, the FMA was granted with sufficient intervention and enforcement powers. The FMA can initiate both civil and criminal actions for misconduct. Strong actions are taken for a breach of the law or when individuals or entities providing KiwiSaver fail to meet the expected standards. The FMA may also use criminal prosecution in the cases of serious unlawful conduct and require monetary compensation for the losses resulting from the unlawful conduct. While in the past Court actions focused on the directors of the concerned entities, the FMA also intends to hold senior management and advisers accountable for their actions, where appropriate.

**Figure A5. New Zealand: Coverage of private pension plans before and after the introduction of the automatic enrolment programme**



*Note:* Coverage is measured as a percentage of people under 65. Data refer to all private pension plans. Numbers may include multiple counting, as individuals may be members of several pension plans (i.e. having assets or accrued benefits in a plan). The blue line represents the introduction of automatic enrolment.

*Source:* OECD Global Pension Statistics.

<sup>95</sup> FMA, 'Inquiries, Investigations and Enforcement Report', August 2012.

## THE UNITED KINGDOM

### Box 5. Key features of the automatic enrolment programme in the United Kingdom

#### Implementation timetable

The automatic enrolment programme was introduced in October 2012. The programme, aiming to enrol up to 11 million workers into occupational pension schemes, applies to all employers on different dates depending on the size of the employer, with large employers being required to follow the new duties first, followed by medium and small size employers. All employers will be required to comply by February 2018.

#### Covered employees

Employers automatically enrol (eligible) workers into workplace pension scheme if they are:

- not yet members of a qualifying pension scheme,
- aged between 22 and state pension age,
- earning more than GBP 10,000 a year (this figure is reviewed by the government each year), and
- working or ordinarily working in the UK.

Depending on their age and earnings, workers who are not required to be automatically enrolled can decide to opt into an automatic enrolment scheme or to join a workplace pension scheme.

#### Pension schemes

All eligible workers should be enrolled into an automatic enrolment scheme, an existing (qualifying) workplace pension scheme, or the National Employment Savings Trust (NEST),<sup>96</sup> the default qualifying workplace scheme. Qualifying defined contribution (DC) pension schemes need to offer a default investment fund. Contributions are invested in the default investment fund upon automatic enrolment, unless other investment funds are selected by employees. NEST is an automatic enrolment trust-based low-cost DC pension scheme established by the government to support the introduction of automatic enrolment, which has a public service obligation to accept all employers. NEST offers several investment funds and a default investment fund, and is responsible for the management and investment of individuals' retirement savings. With NEST every member has one retirement account, to which they pay contributions when employed, change employment, stop working, or become self-employed.

#### Contributions

Both employers and employees make contributions to the pension scheme. Ultimately, all automatic enrolment schemes will have a minimum contribution of 8% of a band of earnings that is reviewed every year, of which at least 3 percentage points will be paid by employers (currently 1%), with the remainder being paid by employees, who receive tax relief on their contribution. Both employers and employees can elect to make additional contributions.

#### Opt-out options

Employees can opt out of the pension scheme (and get their contributions refunded if they opt out within 30 days of being enrolled). Employees may choose to opt back in once in every 12 months. Employers are required to automatically re-enrol all eligible workers who opted out of the scheme, but did not join another scheme, approximately every three years after their initial staging date.

#### Main supervisory authority

The Pensions Regulator (TPR), <http://www.thepensionsregulator.gov.uk/>.

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<sup>96</sup> [www.nestpensions.org.uk](http://www.nestpensions.org.uk).

## **The Pensions Regulator's compliance strategy with automatic enrolment regime**

The Pension Act 2008 implemented the automatic enrolment programme in the UK, making pension provision a fundamental workplace duty of every employer, and assigning the Pensions Regulator (TPR), the regulator of occupational pensions, with a new strategic objective to 'maximise' compliance with employer duties. The law came into force as of July 2012.

The introduction of automatic enrolment represents a new audience for the Pensions Regulator – over 1 million<sup>97</sup> employers defined in the legislation as 'anybody who has an employment relationship with a worker'. Given the scale of this new audience, the Pensions Regulator took the strategic view of early engagement with employers to ensure that they know and understand their duties.

As of August 2014, over 4 million people had been automatically enrolled into occupational pension schemes in the UK.<sup>98</sup>

### ***Enabling compliance***

TPR's overall compliance strategy is centred on communication and providing support and guidance to employers and other stakeholders to help them understand their duties and comply with their obligations under the new regime. TPR supervisory approach first consisted of generating awareness and understanding of the obligations that the employer has to comply with, and then providing more specific tools and guidance to enable them to fulfil their automatic enrolment obligations, for example by publishing detailed guidance, and by interactive tools for employers.<sup>99</sup>

Broad information and education efforts have been developed by TPR to inform and get employers to comply with their new duties.<sup>100</sup> A multi-channel approach has been prioritised to encompass various audiences. TPR's website, which is regularly updated, presents a primary source of information and resources for employers to help them to understand their duties and enable them to comply with automatic enrolment legislation. Also, a special TPR liaison team was created to organise meetings with each of the largest employers through a one-to-one engagement approach.

### ***Preventing non-compliance: declaration of compliance process***

To minimise the risk of non-compliance, TPR put in place a robust declaration of compliance (formally known as registration) system, designed to be simple and easy to use in order to minimise the administrative burden for employers. All employers are required to declare their compliance with the automatic enrolment duties with TPR within five months of their staging date to confirm that they have met their duties, kept certain records, and provided the necessary information to employees. They are also required to provide certain information to TPR, such as the number of eligible workers enrolled. It is

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<sup>97</sup> <http://www.thepensionsregulator.gov.uk/docs/delivering-successful-automatic-enrolment.pdf>.

<sup>98</sup> <http://www.thepensionsregulator.gov.uk/docs/automatic-enrolment-monthly-registration-report.pdf>.

<sup>100</sup> TPR's information campaign directed to employers started in 2011 and was set to follow a precise timetable. To support this policy, a special TPR liaising team was created to organise meetings with each of the large employers staging in the pivotal first six tranches, representing all UK employers with 10,000 or more workers. This direct, one-to-one engagement with large employers aimed to support their efforts to comply with the new automatic enrolment duties in order to set the tone and framework for other employers joining the process later. TPR automatic enrolment team held over 600 face-to-face meetings with employers, pension scheme providers, and software providers.

expected that over a million employers of all types and sizes will register with TPR throughout the staging process.<sup>101</sup>

### ***Investigation and enforcement policy***

TPR relies on the risk-based supervision approach to determine the most appropriate responses to non-compliance (e.g. whether to undertake regulatory inspections and enforcement actions). Any breach of employers' duties, safeguards, or other legal requirements is transferred for consideration, investigation, or enforcement action.

#### *1.3.1 Risk assessment*

TPR's investigation policy is based on risk management as a tool to identify, measure, and respond to non-compliance in a proportional and consistent manner. Assessment of risk, both at the systemic (strategic risks) and individual employer (sector) levels (operational risks), is placed at the heart of the investigation process, and is supported by the research and analysis of information collected through various sources.

##### *Strategic risk assessment*

To ensure a proportional and consistent supervisory response, TPR has developed risk indicators (on the basis of key strategic risks identified) to build risk models, which will enable the identification of systemic risks as they develop and for the appropriate deterrent or preventive strategies to be implemented. So far, the following ***key risks for non-compliance*** have been identified and will be monitored:

- *failure to comply with the automatic enrolment duties and safeguards;*
- *poor administration by employers (poor record-keeping and administration of pension schemes);*
- *qualifying pension scheme not meeting specific criteria as defined in the regulatory guidance;*
- *incorrect advice received;*
- *fraud;*
- *unpaid contributions.*

TPR's strategic risk assessment system will be regularly reviewed to ensure that new emerging systemic risks and trends are being caught and addressed. The risk assessment system will be complemented by collection and analysis of information coming from other sources, such as other public agencies, whistle blowing, etc.

##### *Operational risk assessment*

Risk assessment at the operation level focuses on measuring risks in relation to individual employers or third parties.

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<sup>101</sup> <http://thepensionsregulator.gov.uk/press/cbi-automatic-enrolment-speech.aspx>.

The risk factors are included in the risk assessment matrix, which uses a ‘traffic light’ system to prioritise supervisory responses: ‘red’ cases requiring priority intervention, ‘amber’ cases indicating medium risk, and ‘green’ cases indicate low risk and limited intelligence required.

TPR will periodically evaluate the success of its risk management program to determine to what extent it enhances employers/third-party compliance with the regulatory requirements and reduces the risks of non-compliance. The effectiveness of supervisory policies and responses, and in particular the ability to remedy the incidences of non-compliance, is crucial to measuring the success of the risk-based approach.

As part of the investigation process, TPR may first seek information/documentation/explanations from employers and providers on a voluntary basis, allowing for reasonable delay to provide the regulator with the information or other evidence of compliance with duties. The investigation process can also involve use of statutory powers (some of them new given by the Pensions Act 2008), ranging from warning letters, statutory compliance notes, and monetary penalties (fixed and escalating daily penalties<sup>102</sup>), to criminal prosecution (cf. Figure A6).

In the year from 1 April 2013 to 31 March 2014, TPR started a total of 785 cases into possible non-compliance by employers.<sup>103</sup> So far, most of the investigations have involved helping employers comply with their automatic enrolment duties on time. The vast majority of cases were resolved through direct communication between TPR and employers, without recourse to enforcement actions. Up to the end of March 2014, TPR has used its formal powers on 18 occasions in relation to 15 cases. TPR has issued 14 Compliance Notices (s35), one Unpaid Contribution Notice (s37), two Statutory Inspection Notices (s74), and one Statutory Demand (s72).

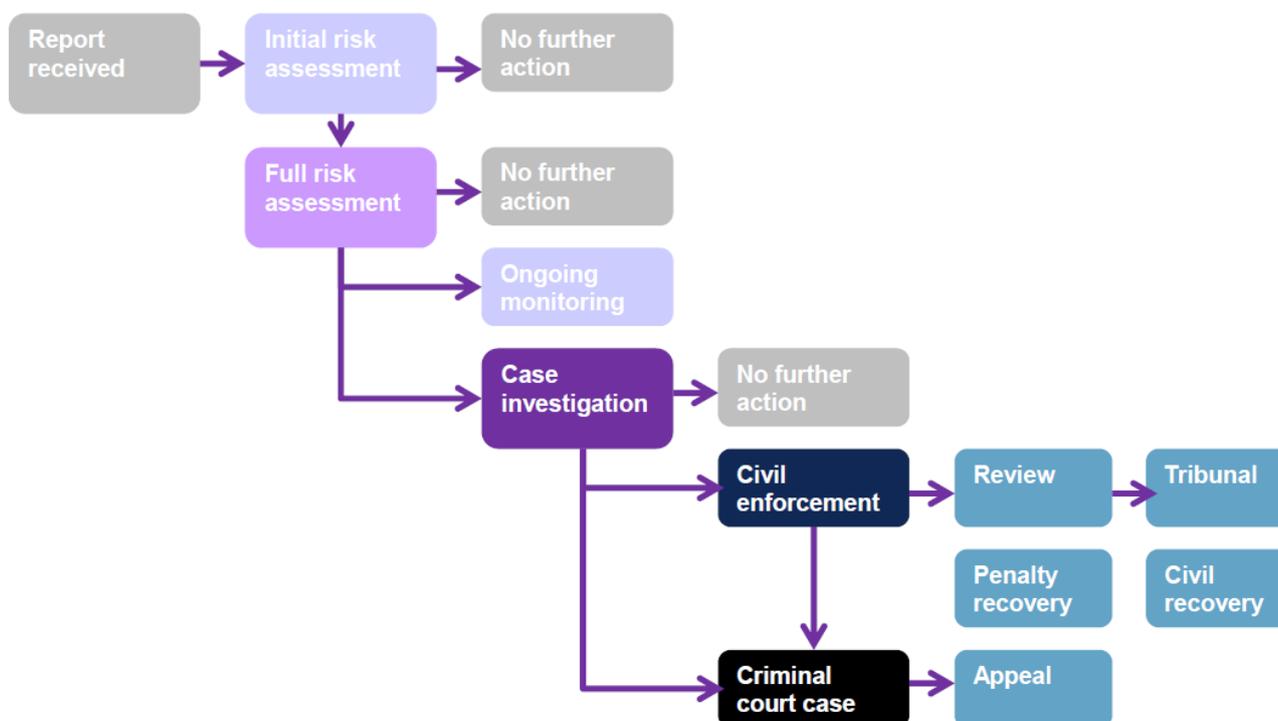
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<sup>102</sup> Fixed penalties of GBP 400 to an employer for breach of most of automatic enrolment requirements. If a company fails to comply with compliance notice, escalating daily penalties are imposed, depending on the size of business between GBP 50 and GBP 10,000 (for an employer with 1–4 workers, it is GBP 50; for an employer with over 500 workers, it is GBP 10,000).

<sup>103</sup> TPR, Automatic enrolment, commentary, and analysis, July 2013.

Figure A6. TPR Investigation journey<sup>104</sup>

## Investigation journey – e.g. inducement activity



### *Enforcement decisions*

Information and evidence gathered through the investigation process and other sources provides the basis for taking (or not) enforcement action. When preparing/taking enforcement decisions, a distinction is being made between intentional and unintentional compliance breaches, as well as consideration being given to aggravating or mitigating factors.<sup>105</sup>

<sup>104</sup> Presentation by Mr. Philip Diamond at the IOPS Technical Committee meeting, 22 October 2012, Santiago, Chile

<sup>105</sup> No statutory definition of aggravating/mitigating factors exists.

**Table A4. Aggravating or mitigating factors influencing TPR enforcement decisions**

<b>Aggravating factors</b>	<b>Mitigating factors</b>
Large number of workers affected	Small number of workers affected
Systemic issues	No systematic issues
High financial impact on workers	Employer identifies and rectifies breach
Serious and prolonged breach	Minimum impact on workers' rights or entitlements
Employer has sought to take financial or commercial advantage by not complying	Taking steps to prevent recurrence
Employer deliberately sought to conceal non-compliance by giving false information	Good and demonstrable track record of compliance
Intentional breach of law	Cooperative attitude to restore compliance
Breach compromising the regulator to carry out its regulatory function	Reasonable excuse for non-complying
Persevering uncooperative attitude for non-compliance	Third party is wholly or partly responsible for breach

TPR's compliance and enforcement policy and strategy documents<sup>106</sup> provide full details on the regulator's supervisory approaches and powers to maximise employers' compliance with the automatic enrolment duties.

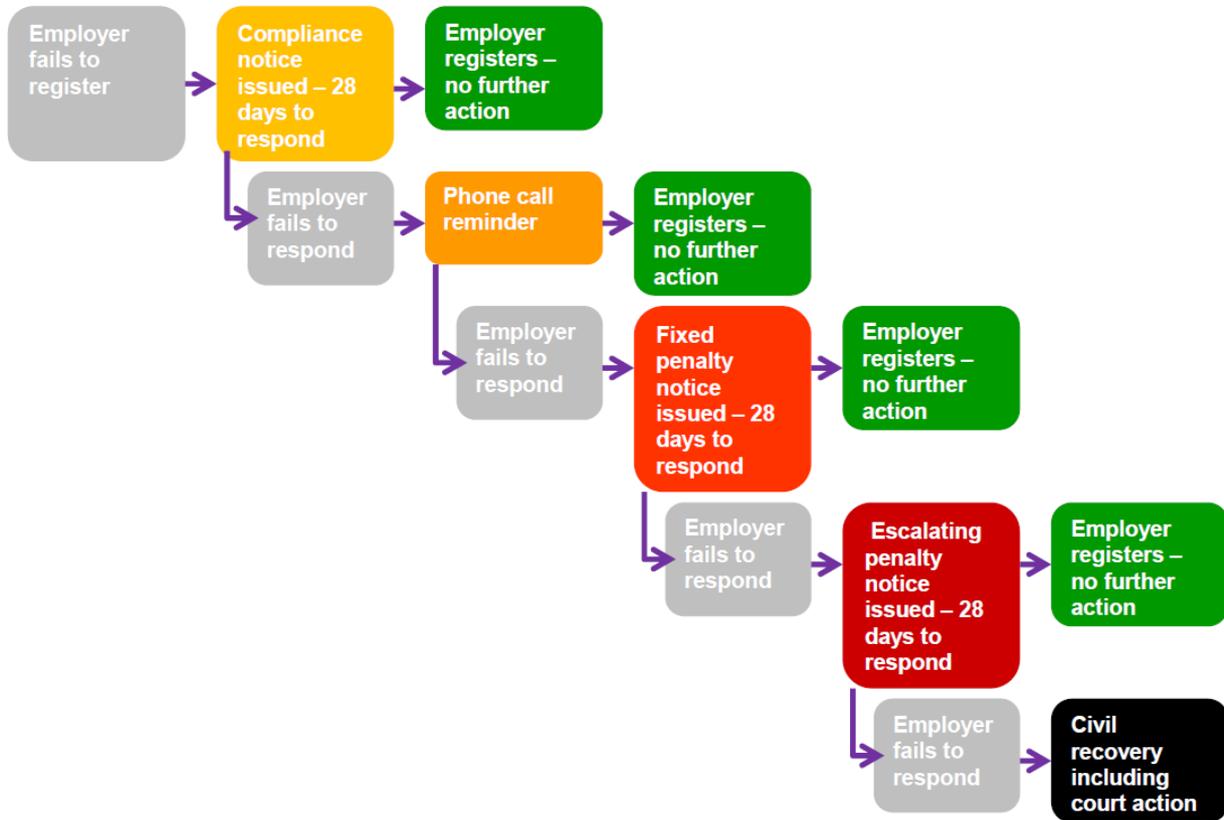
In developing the compliance regime, TPR closely cooperates with other public agencies already operating in the field of employer compliance, including those responsible for the national minimum wage, health, and safety licensing.

<sup>106</sup> TPR, June 2012, 'Compliance and Enforcement Policy for Employers subject to Automatic Enrolment Duties.'

TPR, July 2012, 'Compliance and Enforcement Strategy for Employers subject to Automatic Enrolment Duties,' [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk).

Figure A7. TPR compliance journey<sup>107</sup>

## Compliance journey – e.g. failure to register



### Review and appeal processes

To ensure the fairness and transparency of the supervisory process, TPR has put in place a robust review and appeal process. The employer/third party can apply for a review through a number of channels (on line via electronic form; telephone, post, e-mail, in person). The review will be performed by a TPR review officer and a written reply addressed to the applicant. In case of further disagreement with the review decision, the employer/third party could appeal it to the First Tier Tribunal.

### Identified challenges

The Pensions Regulator has identified a number of specific challenges and risks in relation to implementation and supervision of the automatic enrolment programme in the UK, among them:

#### *Identifying the workforce*

Large employers have voiced concerns regarding the challenges they have faced when complying with the automatic enrolment requirements. One of the particular worries reported is the challenge of identifying who is an ‘eligible jobholder’.<sup>108</sup> This is linked to earnings bands and earnings themselves. In

<sup>107</sup> Idem footnote 104.

<sup>108</sup> <http://www.thepensionsregulator.gov.uk/employers/eligible-jobholders.aspx>.

the cases of some employers, this can be a complex composition of elements (e.g. wages, bonus, commission), making identification of who falls within this category at any given time more difficult than some HR departments and their payroll providers envisaged.<sup>109</sup>

*Identifying an appropriate scheme*

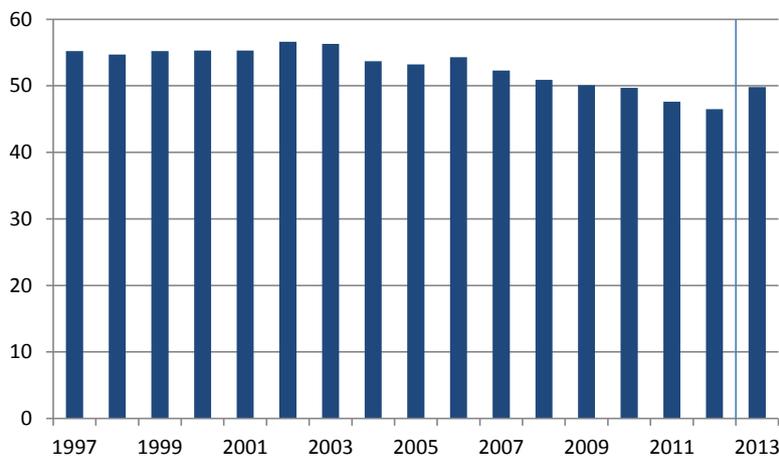
The employer is obliged to choose an automatic enrolment scheme from those on offer in the market place<sup>110</sup> and is encouraged to act as the consumer by considering good member outcomes when selecting.

Early in the automatic enrolment implementation process, TPR received feedback that employers without pension scheme experience found this task difficult. In response, TPR provided guidance to support them, and continues to work with employer trade bodies on making it easier for the employer to identify quality schemes (e.g., selecting a good automatic enrolment scheme guidance, DC qualifying scheme interactive tool).

*Allowing sufficient lead-in time*

In spite of early warning letters and follow up contact carried out by TPR, the general feedback on TPR’s engagement with large employers was that more time has been needed to set up the required infrastructure with HR and payroll than was first thought necessary. The regulator uses this lesson when in contact with the medium-sized employers and continues to give strong messages about the need for early preparation to the industry.

**Figure A8. The United Kingdom: Coverage of private pension plans before and after the introduction of the automatic enrolment programme**



*Note:* Coverage is measured as a percentage of total employees. Data refer to workplace pension plans. Numbers may include multiple counting, as individuals may be members of several pension plans (i.e. having assets or accrued benefits in a plan). The blue line represents the introduction of automatic enrolment.

*Source:* Office for National Statistics (ONS 2014).

<sup>109</sup> See GFK reports – only 30% of medium and 26% of small employers correctly identified all relevant components of pay to be assessed, <http://www.thepensionsregulator.gov.uk/docs/ecr-employer-tracker-research-autumn-2012.pdf>, <http://www.thepensionsregulator.gov.uk/docs/intermediary-tracker-report-autumn-2012.pdf>.

<sup>110</sup> Detailed Guidance 4, para. 17; <http://www.thepensionsregulator.gov.uk/docs/pensions-reform-pension-schemes-v4.pdf>.

## THE UNITED STATES

### Box 6. Key features of the automatic enrolment programme in the United States

#### Implementation date

Automatic enrolment in certain types of occupational pension plans was introduced in 1998 for newly hired employees<sup>111</sup>. Since 2000, automatic enrolment was extended to current workers who were not enrolled in a pension scheme. In 2006, the adoption of the Pension Protection Act greatly encouraged automatic enrolment by giving employers incentives to automatically enrol their employees into a retirement saving plan.

#### Covered employees

Employees are automatically enrolled in a plan and a defined percentage is deducted from the wage unless the participant opts out or chooses a different contribution rate. Some employees may not be eligible to participate if they are not yet 21 years old, have not completed a year of service, or are covered by a collective bargaining agreement.

#### Pension schemes

Automatic enrolment features can be used in 401(k), 403(b), and 457(b) plans.

*Automatic Enrolment in the 401(k) plan:* A plan can be established directly by an employer or a financial institution – a bank, mutual bank provider, or insurance company that will manage the plan.

Several types of automatic enrolment 401(k) plans exist:

A basic automatic enrolment 401(k) plan – is a plan where employees must indicate the percentage of salary that will be automatically deducted from their pay. The employees have the right to decide not to be enrolled and/or to contribute a different percentage to the pension plan.

An eligible automatic contribution arrangement (EACA) – is similar to the basic automatic enrolment plan but enrolled participants can automatically withdraw their contributions within 30 to 90 days of the first contribution.

A qualified automatic contribution arrangement (QACA) – is a type of automatic enrolment 401(k) plan that automatically passes certain kinds of annual required testing. The plan should have special features, such as a fixed schedule of automatic employee and employer contributions, a special vesting schedule, and specific notice requirements.

#### Contributions

##### *Employees*

In the basic and EACA 401(k) plans, the employees will decide on the percentage of monthly earnings that will be automatically deducted as contributions to the pension plan (within the limits set by the law).

In the QACA plan, the initial contribution must be at least 3% of monthly pay (minimum rate). After the first year, the contributions must increase so that by the fifth year of participation the contribution rate reaches 6% of monthly pay.

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<sup>111</sup> See Internal Revenue Service Rule 98-30, which allows to make ‘negative elections’ into 401(k) plans for newly eligible employees (‘negative election’ allows workers to be automatically enrolled in their employers’ retirement savings plan if they take no action), <http://www.irs.gov/>.

## *Employers*

In the basic and EACA 401(k) plans, the employers can use several options if they decide to complement the employees' contributions: they can match the amount that employee is contributing (within the limits set by the law) or provide a percentage of each employee's contributions (non-elective contribution) or both. The employer can change the amount of matching and non-elective contributions once a year.

In the QACA plan, the employer has the possibility:

- to match 100% of the first 1% of employee contributions, and 50% of contributions beyond 1%, up to 6% of wages;

- to make a non-elective contribution of 3% of monthly wages to all participants.

In the QACA plan, the employer may make additional contributions to employees' accounts, whose amounts can be changed annually according to the business conditions of the employer.

Employees' and employers' contributions to the automatic enrolment 401(k) plans are subject to an overall annual limitation for each employee. The automatic employees' contributions cannot exceed 10% of wages in any year.

### *Escalation of contributions*

Automatic enrolment pension plans (basic and QACA) can include escalation features, e.g. the amount of employee's contributions to the plan (without employee affirmative election) is increased periodically in accordance with the terms of the plan.

### **Opt-out options**

Participants have the right to decide not to contribute to the automatic enrolment plans by making an affirmative election. An automatically enrolled worker has 90 days to opt out and withdraw any contributions (including earnings on these contributions).

### **Non-discrimination test**

To preserve the tax benefits of a 401(k) plan, the contributions must be made for all employees and not only highly compensated employees (non-discrimination rules).

Basic and most EACAs plans are subject to annual testing to ensure that the amount of contributions made on behalf of rank-and-file employees is proportional to the amount made on behalf of owners and managers. Automatic enrolment 401(k) plans set up as QACAs are not subject to this annual testing.

### **Default investment option**

The default investment option must be set up as a part of the automatic enrolment pension plan. The employers have the responsibility for prudently selecting and monitoring the default investment. The participants should be provided with the opportunity to periodically direct his/her investment from the default investment fund to a broad range of other investment options.

*Qualified default investment alternatives* (QDIAs) are funds in which participants' contributions can be invested if the participant does not provide an investment direction. QDIAs are designated by the plan administrator following the regulations issued by the US Department of Labour (DOL) in 2007.

### **Main supervisory authority**

The US Department of Labour's Employee Benefits Security Administration (EBSA); <http://www.dol.gov/ebsa>

The Internal Revenue Service (IRS), <http://www.irs.gov/retirement>

## Regulation and supervisory oversight

### Regulatory framework relating to automatic enrolment

In the United States, there are three main sources of retirement income coming from: (1) social security, a federal programme funded by US employees and employers to provide funds to the retired, unemployed, and disabled workers; (2) traditional employer-sponsored defined benefit (DB) plans or employer-sponsored defined contribution (DC) savings plans; and (3) individual savings accounts. The development of automatic enrolment is linked to private DC plans.

A form of automatic enrolment was approved in 1998, when the Internal Revenue Service (IRS) created the framework for introducing automatic enrolment into 401(k) plans – a plan sponsor could automatically enrol newly hired employees. In 2000, it further expanded relief to include automatic enrolment for current employees who had not been enrolled.

When automatic enrolment was introduced, the programme raised a number of legal issues for plan sponsors. For example, in most 401(k) plans where participants decide on investment of their contributions, the sponsors could apply to get fiduciary relief if they (sponsors) comply with relevant regulations. However, for automatically enrolled participants who did not affirmatively elect investments for their accounts (default investment), the plan sponsors were not eligible to apply for provisions limiting their fiduciary duties. Furthermore, in many States, legislation prohibited deductions from employees' wages without their written consent. These provisions may have been interpreted as conflicting with automatic enrolment arrangements.

The Pension Protection Act (PPA) of 2006 removed impediments to employers adopting automatic enrolment, including employers' fears about legal liability for market fluctuations and the applicability of the state wage withholding laws. The PPA amended the Employee Retirement Income Security Act (ERISA)<sup>112</sup> and addressed some issues of the automatic enrolment provisions (ERISA 514 (e) (1)) that came into conflict with state laws. This Act brought about major improvements to the retirement savings environment in the US by giving employers incentives to automatically enrol their employees into a retirement savings plan.

The PPP established a 'discrimination testing safe harbour' for automatic enrolment arrangements under the Internal Revenue Code. Plans that meet the safe harbour requirements are exempt from the discrimination testing rules. The Act also provided that the States that might prohibit automatic enrolment arrangements be pre-empted by the ERISA, subject to meeting certain requirements. It also formulated rules under which the default investment fund can be used by participants without affecting the plan's sponsors' right to have relief from liability under specific ERISA requirements.

The introduction of the non-discrimination test (or safe harbour<sup>113</sup>) for automatic enrolment 401(k) plans was viewed as an important step to further promote the wide adoption of automatic enrolment

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<sup>112</sup> [http://www.dol.gov/ebsa/compliance\\_assistance.html#section7](http://www.dol.gov/ebsa/compliance_assistance.html#section7).

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for retirement and health benefit plans in private industry. ERISA does not require any employer to establish a plan. If an employer decides to establish a plan, it must meet certain minimum standards.

<sup>113</sup> Originally, two safe harbours were created. One safe harbour required a minimum level of non-elective contributions for all participants and the other one required certain levels of matching contributions. Ultimately, a third safe harbour was added for plans providing automatic enrolment, so now there is a safe harbour based on each of the three types of contributions, matching contributions and elective contributions.

arrangements among all kinds of employees and not only for the higher-paid workers. Employers that have automatic enrolment arrangements are not mandated to comply with the safe harbour rules, although doing so will relieve them from passing the non-discrimination test.

When the PPA was introduced, a set of guidelines was designed to address fiduciary relief for certain appropriate investments capable of meeting workers' long-term retirement savings needs. This represented a significant change from prior default investments, which emphasised capital preservation. A variety of investment options were made available as default investments. The US Department of Labour (DOL) issued regulations on Qualifying Default Investment Alternatives (QDIAs), which include life cycle or targeted-retirement-date funds, a balanced fund, a professionally managed account, and a stable value fund.<sup>114</sup>

**Table A5. QDIAs at a Glance<sup>115</sup>**

<p>A balanced fund:</p> <ul style="list-style-type: none"> <li>• offers a mix of equity and fixed-income investments;</li> <li>• is based on group demographics of the plan as a whole;</li> <li>• may not consider risk tolerance of individual participants.</li> </ul>
<p>A life-cycle or target-retirement-date fund:</p> <ul style="list-style-type: none"> <li>• creates an investment model based on participants' age, retirement date, and life expectancy;,</li> <li>• is not professionally managed for individual investors.</li> </ul>
<p>A professionally managed account:</p> <ul style="list-style-type: none"> <li>• is actively managed by investment managers;</li> <li>• provides an appropriate asset mix of equities and fixed income for each individual participant;</li> <li>• takes into account the primary decision factors of age, retirement date and life expectancy.</li> </ul>
<p>A stable value fund:</p> <ul style="list-style-type: none"> <li>• serves as a capital preservation product for the first 120 days of participation;</li> <li>• offers an option for plan sponsors who want to simplify the administration if employees opt out of participating before incurring an additional tax.</li> </ul>

A pension plan with automatic enrolment features can designate a QDIA as a default option among other available investment opportunities. A participant will be directed towards a default option if he/she decides to make automatic elective contributions, but fails to make an investment choice. Adoption of QDIAs may relieve plan sponsors from certain fiduciary responsibilities with respect to selecting default investments for automatic enrolment plans (provided that QDIAs meet certain criteria). By facilitating the adoption of automatic enrolment plans, and by encouraging investments appropriate for long-term retirement savings, the DOL estimates the regulation will result in between USD 70 billion and USD 134 billion of additional retirement savings by 2034.

### Supervisory oversight

There are two government agencies with the authority to regulate and enforce provisions with respect to automatic enrolment: the DOL and the Internal Revenue Service (IRS). Within DOL, the Employee Benefits Security Administration (EBSA) is the agency responsible for enforcing the provisions of the ERISA that govern the conduct of plan fiduciaries, the investment and protection of plan assets, the reporting and disclosure of plan information, and participants' benefit rights and responsibilities.<sup>116</sup> Within the EBSA, there are benefit advisors who are responsible for the development and publication of a variety

<sup>114</sup> DOL Reg. 2550.404c-5(e) (4).

<sup>115</sup> <http://www.invesco.com/pdf/QDIA-BRO-1.pdf>; Retirement Industry Education.

<sup>116</sup> <http://www.dol.gov/ebsa/>.

of educational materials for consumers and plans sponsors, and the operation of the nation-wide free hotline providing individual assistance to participants and plan sponsors. The IRS addresses tax-related issues associated with retirement savings (e.g. qualifying as a plan, filling annual reports) and has primary jurisdiction over participation, vesting, and funding requirements.

The two government agencies recognise the importance of communication to promote and assist compliance, and cooperate in publishing brochures for employers to improve their understanding and compliance with the ERISA and certain provisions of the Internal Revenue Code, including automatic enrolment provisions, which, among other things, provide information on:

- establishing an automatic enrolment 401(k) plan:<sup>117</sup> adopting a written plan document, arranging a trust fund for the plan's assets, developing a record-keeping system, providing plan information to employees eligible to participate;
- operating an automatic enrolment 401(k) plan: participation, contributions, vesting, investing the contributions, undertaking fiduciary responsibilities, disclosing plan information to participants, reporting to government agencies, distributing plan benefits;
- terminating an automatic enrolment 401(k) plan, if necessary;
- compliance.

In addition to offering guidance and compliance assistance related to employer responsibilities, the EBSA organises nation-wide educational and compliance seminars and provides websites to help plan sponsors to understand pension plan-related rules and to meet their responsibilities towards members and beneficiaries. The EBSA has developed a series of educational materials and tools jointly with the IRS and other stakeholders, which are available on the EBSA's website.<sup>118</sup> The EBSA activities and attention are particularly directed to small employers who often do not offer a retirement plan, and are not aware of the automatic enrolment option.<sup>119</sup> Another target audience includes service providers, such as accountants, who provide assistance to employers to establish a retirement plan.

The EBSA has also developed several general consumer education programmes simultaneously with its enforcement initiatives regarding delinquent employee' contributions and aiming to assist individuals to find out about their rights and to monitor the safety of their retirement benefits.<sup>120</sup> Also, a fiduciary education programme<sup>121</sup> was established to focus on fiduciary responsibilities related to retirement plans.

While plan sponsors are not required to obtain IRS approval of a plan's qualified status, the vast majority of plan sponsors seek approval in the form of a determination letter. This letter from the IRS provides the plan sponsor with 'reliance' that the IRS will not retroactively challenge the qualification of the plan, even if a disqualifying effect is discovered.

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<sup>117</sup> 'Automatic Enrolment 401(k) Plans for Small Business,' 'Automatic Enrolment Sample Notice,' 'Adding Automatic Enrolment to your plan,' [www.dol.gov/ebsa/faqs](http://www.dol.gov/ebsa/faqs).

<sup>118</sup> [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

<sup>119</sup> <http://www.dol.gov/ebsa/publications/choosing.html>

<sup>120</sup> 'Top Ten Warning Signs', 'What do you know about your retirement plan', 'A look at 401(k) Plan Fees,' were published on the EBSA's website – general guidance, but could be also applied to the automatic enrolment process.

<sup>121</sup> <http://www.dol.gov/ebsa/fiduciaryeducation.html>.

## Enforcement methods

According to the most recent statistics provided by the US DOL, there are 638,390 DC retirement plans in the US (513,000 of which are 401(k) plans, covering more than 88 million participants (including more than 73 million active workers).<sup>122</sup> Given such a large number of plans, monitoring for the compliance of each and every pension scheme is not feasible.

One of the main tools of government enforcement action is the Form 5500.<sup>123</sup> Form 5500 is an important compliance, research, and disclosure tool for the ERISA's overall reporting and disclosure framework. Automatic enrolment 401(k) plan sponsors are required to electronically file this form to disclose to the IRS and the DOL a significant amount of information about the plan and its operation. These reports are subject to public disclosure.

Although not specifically applied to the automatic enrolment process, both the IRS and the EBSA recognised the importance of voluntary compliance and provide methods to allow for self-correction.<sup>124</sup> The programmes are structured to encourage voluntary compliance by self-identifying and self-correcting certain violations of the law – prohibited transactions.

The IRS has initiated a series of programs (put together under the Employee Plans Compliance Resolution System) to give employers an incentive to perform self-audits and to correct their own defects, while the agency maintains its powerful enforcement tool to conduct audits.

### Box 7. The Employee Plans Compliance Resolution System (EPCRS)

In developing the EPCRS, the IRS has been guided by the following principles:

1. Sponsors and plan administrators should be encouraged to establish administrative practices and procedures that ensure their plans are operated in accordance with the Internal Revenue Code.
2. Sponsors and plan administrators should satisfy the applicable plan document requirements of the Internal Revenue Code.
3. Sponsors and plan administrators should make voluntary and timely correction to any plan failures, whether involving discrimination in favour of highly compensated employees (HCEs), plan operations, the term of the plan document, or adoption of a plan by an ineligible employer. Timely and efficient correction protects participants by giving them expected retirement benefits, including favourable tax treatment.
4. Voluntary compliance is promoted by imposing limited fees for voluntary corrections approved by the IRS, thereby reducing uncertainty regarding sponsors' and participants' potential tax liability.
5. Fees and sanctions should be graduated to create and maintain an incentive to correct promptly.
6. Sanctions for plan features identified on audit should be reasonable in light of the nature, extent, and severity of the violation.
7. The IRS administration of its correction programs should be consistent and uniform.
8. Sponsors should be able to rely on the availability of the EPCRS in taking corrective actions to maintain tax-favoured status of their plans.

Source: McGill, D. *et al.* (2010).

<sup>122</sup> DOL Employee Benefits Security Administration, Private Pension Plan Bulletin, Abstract of 2011 Form 5500 Annual Reports, June 2013.

<sup>123</sup> The type of form depends on the number and type of participants covered in the pension plan.

<sup>124</sup> Self-correction programmes apply to all voluntary private pension schemes, including those for automatic enrolment.

The EBSA has two voluntary self-correction programmes for plans administrators:<sup>125</sup> (1) the Delinquent Filter Voluntary Compliance Programme (DFVCP) and (2) the Voluntary Fiduciary Correction Programme (VFCP). Most of the VFCP applications relate to delinquent employee contributions. The programme allows for self-identified violations to be corrected, permitting the EBSA investigations to pursue undiscovered violations.

### **Main enforcement focus and initiatives**

The EBSA's enforcement activities are focused on pursuing 401(k) plan payroll deductions that are not remitted to members' individual accounts in a timely manner prescribed in the participant contribution regulation. Protecting employees' contributions has become an increasingly important issue for the pension supervisor, as employees are taking more responsibility for saving for retirement, including through automatic enrolment. Failure to forward employees' contributions was identified as a recurring issue throughout the country and monitoring delinquent employee contributions was designated by the ERISA as an ongoing national policy priority. The EBSA commitment to protect employees' contributions led to the first solely national enforcement initiative – the Contributory Plans Criminal Project.

The EBSA also continues to focus on improving disclosure and reporting requirements<sup>126</sup> and fee transparency initiatives. In 2012, the EBSA published the final rule to improve transparency of fees and expenses to workers in 401(k) – type retirement plans.<sup>127</sup> The rule required companies that provide certain services to employer-sponsored 401(k) plans to furnish detailed information on the services they provide and compensation they receive. It was found that fee information is very often contained in lengthy documents, or spread among multiple documents. The DOL issued a proposal<sup>128</sup> to amend the 2012 rule requiring the concerned service to provide a guide if disclosure is made using multiple and lengthy documents (the guide must identify the document, page, section, to enable employers to easily find fee-related information). In addition, the 401(k) Plan Fees Disclosure Tool<sup>129</sup> was created and is available in electronic format to provide employers with a way to collect and compare investment fees and administrative costs of competing plan service providers and to facilitate making cost-effective decisions. Within the EBSA, the office of Chief Accountant is responsible for enforcing the reporting and disclosure provisions of the ERISA (also maintains a front-line compliance assistance programme).

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<sup>125</sup> <http://www.dol.gov/ebsa/publications/correctionprograms.html>

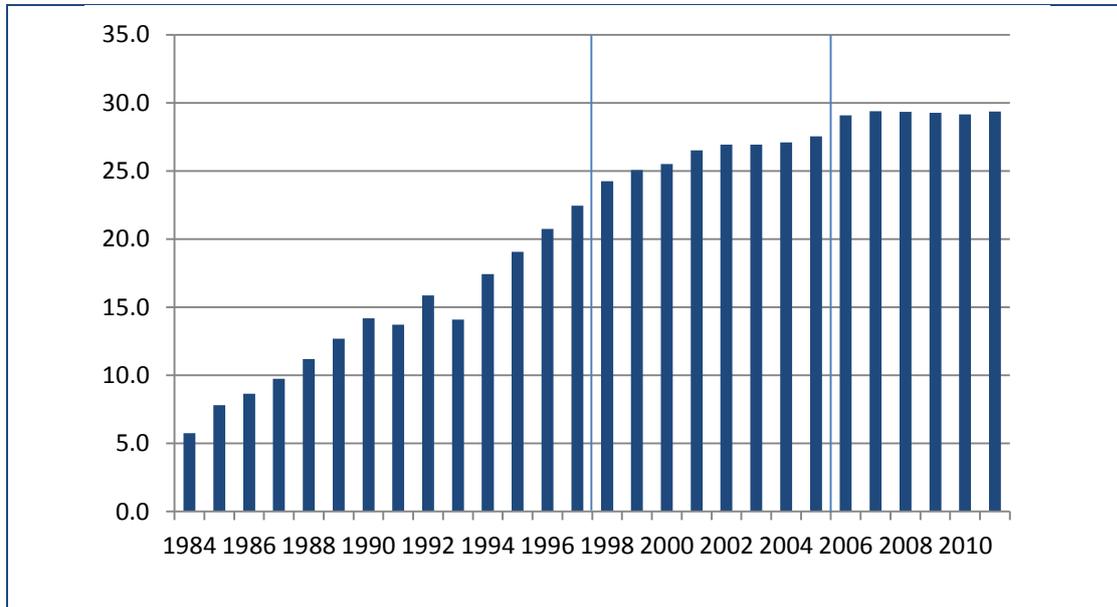
<sup>126</sup> The US DOL prepared the Reporting and Disclosure Guide for Employee Benefit Plans<sup>126</sup> to be used as a reference tool for certain basic reporting requirements under the ERISA.

<sup>127</sup> The Final Rule provides that with respect to investment of assets fiduciaries should act solely in the interests of plans members and beneficiaries; when the plan allocates investment responsibility to participants or beneficiaries they should be made aware of their rights and responsibilities and have sufficient information about investment options, including fees and expense information to make informed decisions. Plan administrators have an obligation to provide to members certain information about plan and investment opportunities.

<sup>128</sup> 11 March 2014, US DOL proposes that service providers give employers a guide for 401(k) fee disclosure; <http://dol.gov/ebsa/newsroom/2014/14-361-NAT.html>.

<sup>129</sup> The form was not developed by DOL and was not designed to ensure compliance with regulations on fee disclosure.

**Figure A9. The United States: coverage of private pension plans before and after the introduction of the automatic enrolment programme**



*Note:* Coverage is measured as a percentage of the working-age population (aged 15 to 64). Data refer to only 401(k) plans. Numbers may include multiple counting, as individuals may be members of several pension plans (i.e. having assets or accrued benefits in a plan). The blue line represents the introduction of automatic enrolment.

*Source:* US Department of Labour (2013).

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