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DEFICIENCIES IN THE SUPPLEMENTARY PENSION MARKET IN POLAND FROM THE PERSPECTIVE OF REGULATORY POLICY

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ABSTRACT

The supplementary pension market in Poland is regulated to a very limited extent and the range of pension plans available is relatively broad. The regulations in force relate primarily to ensuring financial security from the perspective of the operation of financial institutions, their solvency and liquidity. But efficiency and effectiveness of supplementary pension vehicles in delivering adequate incomes in old age are not regulated or regularly assessed. The most urgent regulatory changes include preliminary product assessment ensuring that only an "appropriate" vehicle is allowed to enter the market, i.e. contracts that meet minimum requirements in terms of design, efficiency and cost. The recommended amendments apply also to risk-sharing, forms of pay-outs, cost limits, market transparency and information policy.

Key words: old-age pension, supplementary pension system, pension product, individual pension plans, occupational pension plans

JEL codes: G22, G23, G28, G51, J26

INTRODUCTION

The supplementary pension market in Poland has not as yet developed to a satisfactory level, measured by the rate of participation in supplementary pension protection, despite the introduction of significant tax incentives. In general, low participation in supplementary pension plans may be the result of high benefits from the basic system, low income levels, insufficient state or employer support, low pension awareness or deficiencies in the pension market, including inadequate regulatory policies.

Previous studies on the functioning of the supplementary pension system in Poland have focused on detailed analysis of the pension system architecture, participation rates and the amount of contributions paid, accumulated funds and projected benefit levels [Adamska-Mieruszewska and Mosionek-Schweda 2015, Jedynak 2017]. Some analyses also refer to the characteristics and effects of tax incentives [Rutecka 2014, 2015, Rutecka-Góra 2019a], costliness [Han and Stańko 2020] and the efficiency of products [Berthon et al. 2014, Marcinkiewicz 2015, Szczepański and Brzęczek 2016, Dopierała 2017, Šebo and Voicu 2018, Sołdek and Stachnio 2018, Rutecka-Góra et al. 2020]. However, there are no analyses assessing the impact of the regulations applied on the proper functioning of supplementary pensions, especially from the point of view of savers.

The aim of this study is to analyse the impact of supplementary pension market regulations on the development and operation of supplementary pension plans in Poland, in particular in terms of income adequacy they offer and their adjustment to the needs of individual consumers. The aspects reflected in legal regulations subject to the analysis are as follows:

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the characteristics of pension products in terms of the economic mechanisms applied, risk sharing and guarantees, efficiency and costs, market transparency and disclosure obligations. This study addresses additional retirement provision in Poland with particular emphasis on plans offered to individual recipients without support from an employer, i.e. individual retirement accounts (pol. *indywidualne konta emerytalne*, IKE) and individual retirement security accounts (pol. *indywidualne konta zabezpieczenia emerytalnego*, IKZE). Part of the analysis also covers employee pension plans (pol. *pracownicze programy emerytalne*, PPE), usually for comparative purposes. As the amount of time they have been functioning is too short and the data too limited in scope, the analysis excludes employee capital plans (pol. *pracownicze plany kapitałowe*, PPK), which were introduced to the Polish market in 2019. The main part of the study concerns the Polish pension system. In the final part, however, tools for stimulating and regulating the market for supplementary pension plans recommended by the OECD are also considered.

The research was conducted based on the extant subject literature, the reports of pension providers and data obtained from financial institutions conducting research on the Polish pension market. The following research methods were used: critical literature analysis and systematic review of research on the operation of supplementary pension markets, as well as analysis of statistical data and comparative analysis.

THE SUPPLEMENTARY PENSION SYSTEM IN POLAND

The supplementary pension system in Poland currently comprises four institutional elements:
- employee pension plans (PPE) introduced in 1999,
- individual retirement accounts (IKE) in operation since 2004,
- individual retirement protection accounts (IKZE) offered since 2012,
- employee capital plans (PPK), which have been gradually introduced since mid-2019.

Employee pension plans and employee capital plans are collective plans created as a rule by the employer. Individual retirement accounts and individual retirement protection accounts are individual pension plans established on the initiative of individuals and without the participation of their employers. Most solutions (PPE, IKE and IKZE) are based on voluntary account creation and enrolment in the programme. In PPK, on the other hand, the employer is required to establish programmes, combined with an automatic enrolment mechanism. At the end of 2018, the level of participation in PPE was 2.6% of the total number of working people, while in IKEs and IKZEs it was 5.8% and 4.3%, respectively [KNF 2019a, b].

Almost all of these solutions are offered under the TEE tax regime, which means that the contributions are taxed, and investment income and benefits paid are exempt from taxation. The exception is individual retirement protection accounts (IKZE), which offer tax deductibility for contributions, while withdrawals are taxed at a preferential rate of 10% (TEE tax regime), [more: Rutecka-Góra 2019a]. Due to tax relief in all institutional forms of additional pension protection, upper limits are applied to contributions, expressed in percentages (in PPE and PPK) of an individual's wage or in amounts (in IKE and IKZE, such a limit is also possible in PPE).

Employee pension schemes (PPE) operate in a form of group unit-linked life insurance, investment funds, employee pension funds or in a form of funds under foreign management. Employee capital plans (PPK) are offered as target-date funds, i.e. a range of funds is available with an investment strategy adjusted to different time horizons of saving tailored to the age of the saver. IKE and IKZE use the same economic mechanisms and operate in the following forms: unit-linked life insurance, investment funds, a bank account, an account at a brokerage house, a voluntary pension fund (pol. *dobrowolny fundusz emerytalny*, DFE).

Contracts for pension products/plans are not based on any uniform, standardised template set by legislators. The rules governing the supplementary pension system only specify the mandatory elements of these contracts and, for example, the minimum part of the insurance premium for the purchase of insurance capital funds (ICFs). Under regulations applying to investment activity, certain products (e.g. employee pension funds) specify the types of financial instruments in which the fund's assets may be invested. In most cases, however, there are no specific guidelines for investment strategies (apart from the target-date funds offered in PPK) and the risk profile of the investment or pension funds offered in supplementary pension plans varies widely, ranging from money market and debt funds to aggressive equity funds. As a consequence, the design of pension products varies widely, although they are based on several main economic mechanisms, as mentioned above. Due to the lack of a uniform template shaping the content of individual pension contracts at least to a minimum extent, not all of the products available are similar in terms of their simplicity and transparency. This may cause significant problems with individual consumers' ability to compare offers and choose the one that best suits their needs. This is especially so as there are several dozen individual pension products offered on the individual pension market and the level of knowledge and financial competence seems to be insufficient to make an optimal choice [more: Cichowicz and Rutecka-Góra 2017]. The selection of an inappropriate offer may result in inadequate income at retirement. This problem is exacerbated by the lack of a register and official ranking of pension products.

Of the products analysed, the simplest is obviously the bank deposit mechanism, which would seem to be understandable to most savers, especially in the absence of investment risk and almost complete absence of fees charged to the account (except for liquidation fees). However, the rules of setting the account interest rate (a variable rate) and ways of interest capitalization may raise doubts and misunderstandings among savers [more: Rutecka-Góra et al. 2020].

Second in terms of transparency and comprehensibility would seem to be a voluntary pension fund (DFE), since under this plan, a single fund dedicated exclusively to pension savings is offered by a given financial institution (pol. *powszechne towarzystwo emerytalne*, PTE). DFEs are characterised by a relatively simple fee system but the declared, very general strategy of active allocation may raise some questions among savers. It allows the asset portfolio to be shaped quite freely, which may mean that the current investment profile of the fund does not match the individual preferences of the saver [Rutecka-Góra 2019c].

The most complex and opaque products would seem to be pension products offered as unit-linked life insurance and investment funds. In the first case, the complexity arises from the combination of an insurance product with an investment product in a single contract and an extensive, sometimes multi-layer, system of fees. In the latter case, opaqueness is mainly linked to the multitude of funds available with different investment strategies and different levels of risk, as well as to a very complicated system of fees. Hence, the risk of making an erroneous pension decision is greater, especially when the level of financial competencies of individuals is low.

The inability of individual savers to evaluate products effectively and reliably is due, on the one hand, to their limited knowledge and competence and, on the other, to the inadequacy of information policies and their failure to provide savers with the necessary information in a way they can understand. In order to give individual savers the ability to eliminate inefficient products from the market by showing no demand for them, the pension contract terms have to be made understandable for them. Pension plans should therefore be comprehensible, both in terms of their clarity and economic design, above all to those who contribute to them and expect an adequate level of benefits after years of doing so. They should also be transparent, i.e. they should be easy to compare and evaluate, and free of unnecessary additional options that savers do not often use in practice but that are added automatically to these products and generate additional costs.

RISK SHARING AND GUARANTEES

All supplementary pension plans operating in Poland are based on a pure defined contribution formula. This means full exposure of the individual saver to many risks with the most important being the following [Rocha et al. 2011]: investment risk, inflation risk, liquidity risk, market timing risk, bequest risk, risk of outliving one's savings, risk of a substantial decline in consumption and living standard, longevity risk and bankruptcy risk.

The level of exposure to these risks obviously depends on the form of the pension plan, the investment strategy and the risk profile adopted. However, in a pure defined contribution plan the entire investment risk and inflation risk is borne by an individual participant. Thus, risk sharing is virtually non-existent or extremely asymmetric, to the detriment of individual savers.

The level of risk exposure is also significant in the decumulation phase. Moreover, in the pay-out phase the longevity risk becomes a key one. But forms of benefits offered in the Polish supplementary pension system (a lump sum and a programmed withdrawal) do not offer any protection against longevity risk. This deprives savers of the ability to protect themselves in the event of a longer-than-expected life, as even the most cautious and conscious individuals may have problems with obtaining a life annuity instead of a lump sum.

The high level of exposure of plan participants to a wide range of risks and the lack of guarantees in pension products (plans) are clearly contrary to the expectations of individuals and, in the view of the author of this article, are not reflected in the types and level of fees charged by financial institutions. Extremely asymmetric risk-sharing may be one of the main reasons for the low-level of interest of individual savers in supplementary pension plans or their giving up on saving after a relatively short period of time, despite the tax incentives offered. When deciding on the purchase of a long-term savings product, Poles point to the guarantee of return on capital as the most important feature and consider the absence of a capital gains tax to be the least important [TNS Polska 2016]. Therefore, individual savers expect that the product solutions offered will be primarily aimed at protecting accumulated pension savings in the long term [Cichowicz and Rutecka-Góra 2017], i.e. they will include a guarantee regarding the rate of return.

Rate of return guarantees increase an individual's tendency to save for old age and the amount of funds invested in supplementary pension plans. It should be recalled, however, that these solutions cost money and may result in the application of more conservative investment strategies by financial institutions. This may lead to lower rates of return on pension savings, and thus lower benefits [FCA and The Pensions Regulator 2018]. A certain consensus on guarantees and risk sharing is needed that would take into account the interests of all parties to the pension contract. The introduction of even partial guarantees would undoubtedly result in a more symmetrical sharing of risks, especially when the cost of pension products is high and usually independent of investment performance.

Hybrid solutions based on the defined contribution formula enriched with certain guarantees are already used in many developed supplementary pension markets, especially in Western Europe [more: Gierusz 2019]. It appears that, if the pure defined-contribution formula is revised towards a more "just" sharing of risk, the first options considered should include collective defined-contribution schemes (CDCs) and defined-benefit schemes with rate of return guarantees. An individual participant's exposure to investment risk may also be limited by the introduction of a target-date fund, as is the case in PPK. However, unlike the two previous ones, this solution does not result in a significant change in risk allocation from the point of view of the individual saver.

THE EFFICIENCY AND COSTS OF SUPPLEMENTARY PENSION PLANS

The primary objective of supplementary pension protection is to provide adequate supplementary income in old age. Since supplementary pension schemes are subject to tax reductions, they should be subject to thorough and continuous analysis as to their effectiveness in achieving this objective. However, there are no summaries of the effectiveness and cost of pension products/plans published by the supervisory authority or any other independent body operating in the pension market. Each financial institution separately communicates to their clients the rates of return achieved and the fees and commissions charged. However, the form of the published information does not allow easy assessment of IKE/IKZE efficiency and costliness, nor comparison of available plans[1]. Meanwhile, the market for pension products should be monitored through both preventive control of contract templates and the possibility of product intervention if "dubious" offers appear on the

[1] This may be different for PPK. The Polish Development Fund (PFR) already publishes information on all available employee capital plans, including a summary and comparative list of costs (online at www.mojeppk.pl).

market, which practically exclude the possibility of an individual saver obtaining an adequate income in old age with the content of the pension contract offered.

The nominal and real efficiency of pension plans depends on the form of the product and the choice of specific funds in the third pillar pension market. Studies conducted to date on the efficiency of individual pension products [Dopierała 2017, Rutecka-Góra et al. 2020] have shown that the lowest rates of return were observed for IKE/IKZE in the form of bank accounts, and the highest for voluntary pension funds (DFEs). Conservative banking products did not produce high rates of return; however, they were characterized by low risk and the real interest rates on pension accounts were generally positive. In the case of DFEs, higher or even extraordinary efficiency [more: Rutecka-Góra 2019c] was associated with higher volatility of results and the need to accept negative rates of return in some years. The efficiency of products offered by life insurance companies and asset management companies depends on the strategy for premium allocation, i.e. the decision to allocate capital to specific investment funds or insurance capital funds. Hence, the nominal efficiency of these plans ranges widely, with the largest fluctuations observed in the case of equity and mixed funds, and relatively less volatility in the case of debt funds. But taking into account that DFEs achieved above-average investment results (with active allocation strategy) in the period when some funds of life insurers and asset management companies reported losses [Rutecka-Góra et al. 2020], one should conduct more deep analysis of selected pensions offers and even consider a product intervention procedure if they prove to be inadequate.

The final efficiency of supplementary pension plans is also significantly affected by the fees deducted from contributions paid and then from pension assets. The products offered by banks with virtually no fees are characterized by the lowest costs, except for the liquidation (or transfer)[2] fee charged when the IKE/IKZE saver terminates the account within 12 months. The most costly, however, may be[3] the plans in the form of a securities account in a brokerage house. Other plans are characterized by a very different level of costs, depending on the investment strategy and the management model adopted (internal or external), [more: Rutecka-Góra et al. 2020]. General pension societies, life insurers and asset management companies charge a distribution fee (up-front fee), a management fee and, in case of premature termination of the agreement, a liquidation fee. In the case of external management of an insurance capital fund, the management fee may be charged twice, i.e. by both the life insurer and external asset manager. In investment funds the distribution fee sometimes consists of two elements: a fee for opening the register (usually in the form of a specific amount) and a spread in the price of an investment fund unit (difference between the purchase and sale price). The system of fees can be quite complex, and the level of the overall fee burden can be difficult to calculate. Based on an estimate of the total cost ratio (TCR) indicating how much of the contribution paid by the saver is consumed by fees and commissions charged by the financial institution [Rutecka-Góra et al. 2020], it can be concluded that the most expensive are those plans that invest in aggressive instruments or aggressive funds and with high distribution and handling fees. For such plans, the total cost ratio may exceed 20% of the contribution paid.

The type and level of fees is not currently limited by law, except for investment funds with the maximum management fee introduced in 2019[4] and fees charged by employee capital plans[5]. Most fees are charged

[2] This fee may even be equal to the total amount of interest due for the entire final saving period [more: Rutecka-Góra et al. 2020].

[3] The formulation "may be" was used because there is no data on the activity of individuals saving for old age in this form. With an aggressive approach to investment and engaging in numerous transactions in the financial market, costs will be very high, as there is no upper limit on fees. However, if the holder of a securities account invests only in Treasury bonds, the level of management fees will amount to 0.1% of the value of assets per year.

[4] Since 2019 the management fee cannot be higher than 2% of the fund's net assets value per year, with this limit being introduced gradually. In 2019, management fees shall not exceed 3.5%, 3% in 2020 and 2.5% in 2021.

[5] PPK may serve as an example and guide for desirable changes in the regulations concerning the operation of PPE, IKE and IKZE.

regardless of investment returns and may consume even above-average profits, leading to inadequate benefits in old age.

INFORMATION POLICY AND MARKET TRANSPARENCY

The information policy of pension institutions is defined by rather limited obligations on pension providers, mainly related to the regular submission of reports to the supervisory authority on investment portfolio, assets under management, number of plans, age and sex of savers and amount of contributions. Due to the lack of both an official pension products register and retirement product ranking, individuals who are interested in a supplementary pension plan must now obtain information about the plans by themselves and make product comparisons on their own. As stated in law, basic information together with the content of the agreement have to be provided by the financial institution before the conclusion of the contract, but this is usually prepared in a form and language that is incomprehensible to the average person (the content of most individual pension product agreements is incomprehensible to people with education less than a graduate or postgraduate level) [more: Rutecka-Góra et al. 2020]. Moreover, they have to be found in different types of documents, depending on the product form, which makes the comparison and understanding of contract terms and conditions almost impossible [Rutecka-Góra 2019b].

Regulations concerning the individual pension products, with special focus on unit-linked life insurance, indicate clearly that the information provided to individual savers should be understandable. In practice, however, these statutory requirements for the comprehensibility of the language used in documents regarding the operation of pension plans should be considered defunct because neither the supervisory authority nor any other institution operating on the financial market has taken any action to date, despite the obvious incomprehensibility of the content of agreements and other pension documents for the majority of savers.

The information policy of financial institutions is also very limited at the stage of execution of contracts for managing IKE and IKZE. The saver is informed of the account balance, the number and value of units/financial instruments collected, paid contributions and other operations on the account. However, the vast majority of savers do not receive information about total fees deducted (also as a percentage of contributions or capital), the nominal and real rate of return (both annual and for the entire investment period) and profit (both nominal and real). Consumers thus do not receive key information on the actual performance of the pension plan and have no possibility to compare it with products of other institutions. Moreover, in the case of documents submitted during the contract period, there is usually no statutory requirement for transparency and intelligibility of the language used.

GOOD PRACTICES AND INTERNATIONAL GUIDELINES

On the basis of its own analyses and data collected from OECD member countries, in 2012 the OECD published ten features (recommendations) of a well-structured defined-contribution plan. They are the following [OECD 2012]:

1. Internal coherence of the plan.
2. Appropriate incentives to join schemes and to make contributions in the long term.
3. Effective tax incentives.
4. Stimulation of the development of low-cost pension products.
5. Default investment strategies and a choice of risk profiles.
6. Availability of life-cycle funding.
7. Support of the development of life annuities.
8. Ensuring competition on the life annuity market.
9. Appropriate information policy and availability of instruments facilitating the management of longevity risk.
10. Effective communication with participants.

A few years later, the UK financial supervision and pension supervision [FCA and The Pensions Regulator 2018] identified the availability of inadequate pension products (or the lack of adequate products) as one of the main risks of inadequate supplementary pension benefits in the UK. It was therefore emphasised that regular review of pension plans, occupational and individual ones, was essential to ensure that they offer adequate benefits in return for a contribution at a declared cost (value for money) [FCA and The Pensions Regulator 2018].

In Poland, however, only a few and fragmentary elements listed in the guidelines and recommendations described above are regulated by law. This situation may result from the lack of regular review of the supplementary pension system from the perspective of the needs and interests of individual savers[6]. The lack of interest in assessing the efficiency of supplementary pension plans in providing adequate income in old age, combined with the lack of appropriate regulation of this market, may result in a wide range of unsuitable pension products being available on the supplementary pension market. The supplementary pension system, even if participation rates are significantly increased, may prove to be a tool for a real redistribution of income from individual savers to financial institutions.

CONCLUSIONS AND RECOMMENDATIONS

Products offered on the supplementary pension market in Poland are rarely assessed in terms of their effectiveness in providing income for old age. No institution publishes the full list of pension products with their key characteristics, efficiency and costliness. Inadequate information is one of the deficiencies of regulatory policy that may cause huge problems and prevent the supplementary pension system from further development.

Another key problem of regulatory policy seems to be lack of control of contracts before they are introduced to the market or later control at the stage when they are in operation[7]. Such anticipatory control seems to be highly desirable, and perhaps even necessary, if costly tax incentives are applied in products with no cost limits or investment guarantees. The lack of regulations ensuring that only an "appropriate" product is allowed to enter the market, i.e. contracts that meet minimum requirements in terms of design, efficiency and cost, jeopardises the achievement of the basic objective of supplementary pension plans, i.e. to ensure adequate income in old age. In the absence of control of the economic mechanisms applied and regular verification of the actual profitability of pension plans, products that affect the transfer of funds to financial institutions may operate on the market for many years. In particular, when individual savers are usually unable to assess whether and how profitable the plan in which they participate has proved to be [Šebo et al. 2019].

All supplementary pension plans operating in Poland are based on the defined contribution formula without any guarantees from financial providers. This brings about extremely asymmetrical risk-sharing that should be reduced by changing the regulations regarding the characteristics of the products offered, guarantees of return and types of fees (depending, to a greater extent on investment results) and by extending the pay-out forms to include life annuities. Pension products should offer individuals the possibility to adjust their investment portfolios to their own preferences, including age and "appetite for risk". However, if a significant proportion of savers do not have adequate knowledge and competence to choose instruments that fit them best, the introduction of default solutions and encouraging the development of sound financial and pension advice is necessary. Moreover, the statutory requirements concerning the comprehen-

[6] To date, the regular review of the Polish pension system has dealt almost entirely with the public system. Supplementary protection was analysed only in terms of the level of participation and amount of accumulated assets. However, the effectiveness or cost effectiveness of the pension products and, consequently, the efficiency of supplementary pension plans offered on the market were not assessed.

[7] This type of control did exist several years ago regarding insurance products. This idea is now returning, albeit to a limited extent. On 29 October 2019 the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego) adopted the principle of product intervention regarding unit-linked life insurance. Work on this procedure is to be completed in the second quarter of 2020 and concerns the limitation of the possibility of marketing, distribution and sale of unit-linked life insurance with features that the supervisory authority regards as unacceptable [KNF 2019c]. More in subsequent subsections of this article.

sibility of the terms of contracts provided to savers should be carried out more strictly to make a pension product understandable for an individual saver. In this respect, a procedure must be developed to test the content of financial agreements for clarity, unambiguity and comprehensibility of the message, which would be used throughout the financial market. The information policy also has to be more focused on individuals' needs. Otherwise, they would be discouraged from concluding any pension contract or any active participation in the pension market in general.

The introduction of changes to the regulations discussed above could contribute to the elimination of low coverage, exclusion from the pension market, the purchase and operation of inadequate (inefficient) products or redistribution towards financial institutions. The proposed changes would increase the transparency of the market for supplementary pension products, and make them easier to understand and adapt to the needs of individual savers. At the same time, supplementary pension plans should not be designed in isolation from other components of the pension system, as current trends in pension provision are making universal pension systems increasingly multi-layered and supplementary plans are starting to assume the functions of base systems, regardless of the nomenclature used and the entities managing the respective parts.

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UŁOMNOŚCI RYNKU DODATKOWYCH PLANÓW EMERYTALNYCH W POLSCE Z PUNKTU WIDZENIA POLITYKI REGULACYJNEJ

STRESZCZENIE

Dodatkowy rynek emerytalny w Polsce jest regulowany w bardzo ograniczonych zakresie, a oferta dostępnych planów emerytalnych jest stosunkowo szeroka. Obowiązujące przepisy odnoszą się przede wszystkim do zapewnienia bezpieczeństwa finansowego z punktu widzenia funkcjonowania instytucji finansowych. Zbyt mało uwagi poświęcono natomiast regulacjom umożliwiającym skuteczną i efektywną alokację dochodu w cyklu życia z punktu widzenia indywidualnego oszczędzającego. Konieczna jest weryfikacja warunków planów przed ich wprowadzeniem na rynek, aby wyeliminować z niego produkty nieodpowiednie zarówno z punktu widzenia efektywności inwestycyjnej, jak i kosztowności. Istotnych zmian regulacyjnych wymagają takie obszary, jak: podział ryzyka, formy wypłaty, poziom kosztów, przejrzystość i polityka informacyjna.

Słowa kluczowe: emerytura, dodatkowy system emerytalny, produkt emerytalny, indywidualne plany emerytalne, pracownicze programy emerytalne