

Questions and Answers with Morneau Shepell

Content Based on Webinar on Pension Plan Cutbacks July 22, 2011

Q: Why are we being deducted the overpayment for the “rest of our life”? Why is it not for a certain period of time?

A: We considered this option (that is, collecting the overpayments over three or four years) and discussed it with the NRPC and their advisors. In fact, we have done this for many of the plans we have wound up in the past. The concern raised was that the cutbacks needed to recover the overpayments over a short period would have been much higher than the cutbacks under this methodology. To reduce the hardship that members will face, we decided to amortize the reductions over the person’s lifetime.

Q: Am I allowed to repay the overpayment in one payment and receive an adjusted income statement for 2010 and 2011? That will ensure that I will not have additional monthly deductions.

A: For administrative reasons, it is not practical to offer pensioners different options for the treatment of overpayments. Administering a variety of options would require additional time and work on our part and will frankly delay the completion of the wind up. Permitting repayment of the overpayment raises tax issues that require reporting to the Canadian Revenue Agency. We recognize that for some members this is not the optimum solution, but on balance, we think the approach chosen is the fairest for all members.

Q: You calculated the clawback to your idea of life expectancy, but if you live long past that, are you going to consider we have paid our debt and remove the clawback??

A: It is true that pensioners who live a long time will in effect be subsidizing pensioners who live a short time, much in the same way as pensioners who make contributions to a pension plan that live short time subsidize the pensions of those who live longer. Again, we think this is fairest way to do this.

Q: *J’ai déjà payé de l’impôt sur le montant total que j’ai reçu. Maintenant que je dois rembourser comment cet impôt me sera t’il retourné?*

I have already paid tax on the total amount I received. Now that I have to repay some of it, how will I recover the income tax that I paid?

A: Tax is paid based on the actual amounts you receive. In the past, you were paid more than you were entitled to and paid tax on the entire amount. In the future, you will be paid less to recover the overpayment and be taxed on that lesser amount. The taxes paid were, and

continue to be, based on the total amount paid and there is therefore no need to “recover” any tax.

Q: I am a pensioner who was employed outside Ontario who did not get an indexed pension. Since I am not entitled to an indexed pension, why am I not getting the same funded ratio as the Ontario members?

A: This question has been asked many times, and there are a number of Nortel pensioners, in particular former Prism employees and members who retired many years ago, in Ontario and other Provinces, who are not receiving indexed pensions. The funded ratios for the Plans, as a whole, are 57% and 59% across the country. These ratios apply whether member benefits in those provinces are indexed or not.

Pensions have not been reduced for non-Ontario members as a result of indexation. Instead, Ontario’s legislation, unique in Canada, requires us to eliminate indexed benefits and the liabilities associated with them for Ontario members. It is the elimination of indexation in Ontario that results in an increased funded ratio. Since indexation was not eliminated in any province other than Ontario, there is no increase in the funded ratios in those provinces, irrespective of whether the members in those provinces were entitled to indexed benefits.

Q: *Pourrait-il y avoir d’autres réductions plus tard?*

Could there be other cutbacks later?

A: Given the conservatism we have used for the ratios, and the fact that a significant settlement is likely from the Nortel estates, we think it is very unlikely that there will be any further cutbacks.

Q: Can you eliminate indexation for all provinces, not just for Ontario?

A: We do not have the ability to amend either the terms of the Plans or the legislation in the provinces in which Plan members were employed. The Plan provides indexation for most members. The legislation in each jurisdiction other than Ontario requires us to purchase indexed benefits for members who were entitled to indexed benefits. It is only because Ontario’s pension laws require us to eliminate indexation that the treatment is different.

Q: Why is the spread between Ontario and non-Ontario funded ratios so much higher in the Negotiated Plan (57-75%) as compared with the Managerial Plan (59-70%)?

A: The increase for Ontario members in the Negotiated Plan is higher than the increase for Managerial members because the Negotiated Plan had more comprehensive indexation provisions than the Managerial Plan, and more members in that Plan were entitled to indexed benefits.

Q: If the Ontario employment portion of our pension will no longer be adjusted for inflation, will the out-of-province portion continue to be indexed (in my case Quebec)?

A: Normally, on a pension wind up where members are entitled to indexed benefits, we have not indexed the benefits during our administration. However, when we are in a position to purchase annuities or calculate any lump sum transfers that are payable, the value of that indexation to which members were entitled will be incorporated into the pension purchased or the payment made. The reason we do not index while we administer is that the value of an indexation increase for the years prior to wind up is relatively small compared to the cost and delay of implementing indexation.

We have indicated to the NRPC that, particularly if the wind up period is long, we would consider re-introducing indexation for non-Ontario members. The indexation provisions in these Plans are very complex (for example, some members are indexed, some are not, and the degree of indexation varies depending upon what portion of the pension is being indexed, different rates of indexation are paid depending on the ages of some members, indexation increases were also paid in the month of the members birthday) and any re-introduction of indexation prior to settlement will be greatly simplified. We recognize that members outside Ontario are entitled to indexed benefits, and that they will receive the full value of that indexation. We have not yet worked out exactly how we will efficiently distribute this benefit during the wind up period.

Q: *À quel moment dans le processus serons-nous appelés à décider sur les options relatives à la loi 1 du Québec? La lettre que j'ai reçue ne me donne aucun choix. Qu'est-il arrivé aux 3 choix que je devais recevoir suite à la Loi 1?*

At what point in the process will we have to decide on options in accordance with Law 1 in Quebec? The letter I received gives me did not provide me with options. What happened to the three choices that I should receive according to Law 1?

A: You will still receive those options. The options will be provided to you once the wind up report is approved. More information will be provided regarding these options at a later date.

Q: I worked for Nortel and lived in Ottawa, Ontario continuously without any breaks in service, from 1969 through 2001, for a total of 32 years. However for four years (1975 through 1979) many Nortel employees from the Ottawa Region, commuted daily across the Ottawa River to Aylmer Quebec. We worked for Nortel Digital Transmission Division, Pink Road, Aylmer Quebec but we were given special exemption from paying Quebec employment deductions, taxes etc. and were treated as Ontario employees for tax and deduction purposes. During this time, I was not required to submit any tax forms for the Quebec Provincial Government, all my tax information was collected and assessed by the Government of Ontario. We were treated as Ontario employees due to our resident status in Ottawa.

Can you please confirm that these four years will be considered as Ontario service for the purpose of assessing my pension benefit supplement.

A: For purposes of determining the province in which a member was employed (and hence which province's pension applies), Canadian pension legislation provides that a pension member is employed in the province where the member reports to work. Province of residence is not relevant. If you reported to work for a number of years in Quebec, Quebec's pension legislation would apply to those years.

For those employees who did not report to any location, they are deemed to be employed in the province from which their remuneration is paid. If you think the information contained in your letters is incorrect, please respond as requested and provide us with the correct information.

Q: *Que signifie 'hypothèses conservatrices'?*

What is meant by "conservative assumptions"?

A: We have built some conservatism into the funded ratios for non-Ontario members to reflect a number of factors that may affect the wind up ratio when we settle the benefits by an annuity purchase or a lump sum transfer. These factors include, for example, the risk that annuity prices may be more unfavourable when we go to purchase annuities or plan member mortality may be less than our actuaries have assumed. These are called experience losses and, if they do not occur, the final funded ratio will be higher, as will pensions and lump sum transfer amount. The point is that there are a number of future factors that are relevant to the final funded ratio that are difficult to predict, so we have erred on the side of caution for the time being. The reason we do not have to be as conservative in Ontario is that the Pension Benefit Guarantee Fund ("PBGF") rules "freeze" the Plan's experience at the wind up date – any experience losses will be absorbed by the PBGF.

Q: I worked 40.5 years for Nortel. I worked initially in Quebec for just under 14 years and then was transferred to Ontario. Approximately 34.4% of my service was in Quebec. Am I safe to assume that of my total future pension 65.6% will be at a 70% rate for Ontario service and 34.4% at the 59% for Quebec service?

I understand that a portion of my pension income is to come from my Quebec service. My pension is calculated on my 5 best years of which my last 5 years were working in Ontario. Since a very low amount of my TOTAL earnings were in Quebec, much less than the 34.4% quoted above, will my future pension income on my Quebec portion NOT be at the 59% but much closer to the 70% for Ontario residents.

A. The percentage split for members who worked both in Ontario and other provinces is calculated based on the percentage of the time you worked in Ontario to the time you worked in other provinces. It is not based on how much income you earned in each jurisdiction. Thus, the Managerial Plan member will receive 65.6% of his pension at the Ontario 70% rate (plus any applicable PBGF top-up) and 34.4% at the Quebec rate of 59%.

Q: I get a class C pension, which just pays my mortgage. I am 80 years of age. Will I still receive my pension for life? Also am I qualified to get a lump sum?

A: The options that you have when the wind up report is completed will depend on the province in which you were employed at the time you terminated employment. Right now, all provinces other than Quebec require pensioners to take a pension through the purchase of an annuity. Quebec permits lump-sum payments for pensioners and Ontario has recently passed legislation that would permit lump-sum transfers instead of a pension, although regulations needed to effect this legislation have yet to be issued. If, prior to settlement, other Provinces change their rules to permit the lump sum option we will provide it.

Q: Do you expect the PBGF to increase annually to follow the cost of living? Does the PBGF have a survivor benefit?

A: The PBGF does not increase annually because it applies to Ontario-earned benefits only and indexation is eliminated in Ontario. If the pension that was elected was a joint and survivor pension the PBGF applies to that pension and the pension remains a joint and survivor pension. If you are the surviving spouse of a pensioner who would have qualified for PBGF coverage the PBGF will apply to you.

Q: The effective date for pension reduction is October 2010. Should this be the date when PBGF top-up begins?

A: PBGF Entitlement is calculated as of the wind up date of October 1, 2010. In calculating any overpayments made since that date we have taken the entitlement to PBGF into account.

Q: How can I determine whether I am a member of the Negotiated Plan or Managerial and Non-Negotiated Plan?

A: The letters that were sent out indicate which Plan you were a member of. There are some pensioners who are members of both the Managerial and the Negotiated Plan. Because a single pension payment is being made in respect of their entitlement in both plans, this is not always obvious. For purposes of the pension reductions, separate letters have been sent to those pensioners who were members in both plans outlining the reductions and revised pensions in respect of each pension.

Q: Will we continue to get monthly information slips indicating our payment and taxes?

A: Northern Trust has been issuing all pensioners a monthly Earnings Statement Summary. You will receive this Summary for the August pension payment. However, as a cost cutting measure these statements will not be made thereafter unless the payment information changes, in which case a slip will be issued in the month the change to your pension amount is processed.

Q: I was wondering if the webcast presentation, slides and Q&A will be posted to the NRPC website or the Koskie Minsky website?

A: The slides and the Q&A are on the Koskie Minsky website (<http://www.koskieminsky.com/Case-Central/Overview/?rid=107>). The archived webcast will be available on the Koskie Minsky website by Monday, July 25, 2011.

Q: *Je n'ai pas reçu de lettre de Morneau Shepell. Que dois-je faire? Qui devrais-je contacter et à quel numéro? Je suis inquiet d'avoir été manqué. Si je n'ai pas reçu de lettre, qu'arrivera-t-il à ma pension au mois d'août?*

I have not received a letter from Morneau Shepell. What should I do? Who should I contact, at what number? I am concerned that I may have been missed. If I have not received a letter what happens to my pension in August?

A: The letters to pensioners who were in pay as of October 2010, were all mailed out on July 11, 2011. We have had a number of letters returned to us already. If you have not received a letter please contact us by phone at 1-877-392-2073 if you are a member of the Negotiated Plan or 1-877-392-2074 if you were a member of the Managerial Plan.

Note that if you are a pensioner who started a pension after October 1, 2010, or if you are the surviving spouse of a pensioner who started their survivor pension after October 1, 2010, a letter has not yet been sent to you (and pension adjustments will not occur in August). Letters to these members will be sent out in the next few months.

Q: I understand the Superintendent has its own claim against the estate of Nortel in respect of the PBGF. Will any recovery by Superintendent reduce the recovery to the pension plan?

A: The Superintendent has his own counsel in the CCAA process and we cannot speak as to how he will manage his claim. What we can speak to is how prior claims in other wind ups have been done, and we can indicate that we have no reason to believe that the result will be any different in this case.

In the past, the PBGF has not had a separate claim from that of the pension plans for a payment from the estate of the insolvent employer. Instead, any payment from the estate into the pension plans will increase the funded ratio for all members. At that point, we would recalculate members benefits (in all provinces) based on that increased funded ratio, and we would recalculate each member's PBGF top-up based on the increased funding. Since members will be receiving more from the plan, the top-up they get from the PBGF will be less. This could result in a refund being made to the PBGF. Any refund will have no impact on the share of the proceeds from the estate that go to the non-Ontario portion of the Plans.