

FAQ ON NORTEL REQUEST FOR RECALCULATION OF TRANSFER VALUES WITH RESPECT TO PENSION BENEFITS BASED ON ONTARIO SERVICE

Note: This FAQ is a simplified explanation of a complex topic. The law, regulations, and policies of the regulators and the actual plan documents are controlling, and supersede any explanations below.

Q1 What is the issue?

A1 The Nortel registered pension plans were officially wound up effective on October 1, 2010. The plans were “insolvent” because the plans’ assets were not sufficient to provide all the promised benefits. As Nortel was itself insolvent, the plans’ benefits needed to be reduced to the level that could be supported by plan assets. For benefits earned in Ontario only, there is a Pension Benefits Guarantee Fund (PBGF) that makes up the unfunded portion of the first \$1,000 of each affected person’s monthly benefit, in general. Canadian registered pension plans are required to offer certain non-retired members the option of taking a lump-sum transfer to a locked-in Registered Retirement Savings Plan (RRSP) instead of their pension. The transfer value is computed in accordance with actuarial standards promulgated by the Canadian Institute of Actuaries (CIA) except as otherwise provided by law.

Some participants with Ontario service believe that their optional lump sums would be significantly higher if they were recomputed at today’s interest rates, and have questioned the fairness of MS’s computations. These individuals are advocating a different approach. The approach taken by Morneau Shepell (MS), described below, has been reviewed by the independent actuary retained on behalf of Nortel former employees and all members of the Nortel Plans. He has advised us that MS's approach is appropriate and justified.

MS, the plans’ wind-up administrator appointed by the primary regulator, the Financial Services Commission of Ontario (FSCO), determined that Ontario’s laws and regulations governing wind-ups require the transfer value of pension benefits earned in Ontario to be computed as of the wind-up date, and pursuant to section 24.4 of the Pension Benefits Regulation, carried forward to the start of the month of any distribution assuming that it increased in value at the interest rates used to compute the transfer value at the wind-up date. For most members, those rates were 3.1% for the first ten years and 5.0% thereafter. Today, those rates would be much lower (1.7% for the first ten years and 3.0% thereafter). Lower interest rates generate higher transfer values, all else being equal.

Q2 Is anyone affected who does not have Ontario service?

A2 **Yes.** Recalculation generally is also not allowed by the regulations in other Canadian jurisdictions for plans in the process of being wound up with insufficient assets to provide all of the promised benefits. British Columbia requires recalculation and, since PEI has no legislation, the CIA standard applies and lump-sum amounts are recalculated.

Q3 How are transfer values for Ontario retirees' calculated?

A3 There was a special law passed in Ontario that allows pensioners to elect a transfer to a Life Income Fund (LIF), which would not normally be available to retirees in a wind-up. However, the related regulations make it clear that the administrator (MS) must not recompute the transfer value at the time of the distribution. Section 8 of the Nortel regulation states:

Add to the adjusted commuted value an amount for accumulated interest, to be calculated at the same rate that is used in the wind up report to calculate the commuted value of pension benefits, from the effective date of the wind up to the beginning of the month in which the transfer into the life income fund is made under subsection 102 (2) of the Act. O. Reg. 10/13, s. 8 (1).

The approach taken by MS is consistent with this requirement.

Q4 What rules govern the computation of Ontario transfer values in the case of a wind-up of an insolvent plan with an insolvent employer?

A4 The computation of Ontario transfer values in case of a plan wind-up and crediting of interest on the transfer values after the wind-up date is prescribed in the Pension Benefits Regulation 909. FSCO Policies T800-401 and T800-403 clearly indicate FSCO's view that recomputation does not apply in case of a plan wind-up. This view is consistent with the CIA's Standards of Practice. The Standards call for recomputation in the case of an extended deferral period unless not permitted by applicable legislation.

Q5 Is the lack of recomputation fair?

A5 There is no question that a recomputation would, under current circumstances, provide a higher transfer value. However, if interest rates had gone up, a recomputation would have produced a lower transfer value. Ontario's wind-up rules contemplate determining everything at the wind-up date – October 1, 2010. At that time, no one knew if interest rates would go up or down. Is it fair to use subsequent knowledge – hindsight – to give some people more than the legal requirement? Would those same people have been arguing for recomputation if that had turned out to give them less?

Q6 If somehow recomputation in Ontario became possible, where would the extra money come from?

A6 That's an important question. In general, for an insolvent plan with an insolvent employer, it's a "zero sum game." Therefore, if certain participants (non-retirees electing an optional transfer value) get more, others (retirees, others taking annuities) must get less. The existence of the PBGF in Ontario does complicate this analysis.

Q7 So what's an affected person to do?

A7 Transfer values are worth more to some people than to others. Among other things, whether taking a transfer value is a good idea depends on how long you turn out to live, what rate of investment return you earn, how much of your investment income will be lost to manager and advisor fees, and what your resources will be if you live a long time and the RRSP money runs out. The alternative option to a lump sum transfer is, of course, an annuity, which has none of those attendant concerns.

No one has the answers to these questions at the time of making the election, however, we urge you to speak to your financial advisor regarding your personal situation for advice about the best option for **YOU**. Remember that you were promised a pension and that is what you will get if you do not elect a transfer value. If in your case the transfer value is not good value, or you believe it does not represent a fair value, you have a simple remedy – don't elect the transfer.