

# **Canadian Estate Initial Distribution**

Nortel

August 31, 2017

# Agenda

## 1. Status Update

- NRPC
- Koskie Minsky LLP
- Monitor

## 2. Understanding your statement

- Line by Line
- Eligible Retiring Allowance

## 3. Tax Reporting

## 4. Other

## 5. Q&A

**NRPC**

**KOSKIE  
MINSKY**

JUSTICE MATTERS

# Nortel Legal Summary

## Koskie Minsky LLP

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CIVIL LITIGATION | CLASS ACTIONS | LABOUR LAW | PENSION & BENEFITS

20 QUEEN STREET WEST, SUITE 900 | TORONTO, ON M5H 3R3 | [KMLAW.CA](http://KMLAW.CA)

KOSKIE MINSKY LLP

# Plan of Compromise and Arrangement

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- **January 17, 2017** - creditor votes in Canada resulted in 99.7% of creditors in number (99.24% in value) voting in favour of the Plan of Compromise and Arrangement (the Plan);
- **January 25, 2017** – Ontario Superior Court of Justice (Commercial List) and US Bankruptcy Court released decisions from the bench unanimously sanctioning the Plan of Compromise and Arrangement in their respective jurisdictions.

# Plan of Compromise and Arrangement

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- Two Dissenting LTD Beneficiaries appealed the decision of Sanction Decision requesting that the Canadian Plan be amended in order to set aside CA \$44 million while the court reconsiders the 2010 Employee Settlement Agreement;
- March 14, 2017 – Court of Appeal for Ontario denied leave to appeal to the two Dissenting LTD Beneficiaries;
- May 3, 2017 – Superior Court of Justice (Commercial List) approved Waiver and Reserve Agreement permitting \$44 million to be set aside to allow for the First Dividend distribution;
- May 12, 2017 – one of the Dissenting LTD Beneficiaries sought leave to appeal from the Supreme Court of Canada.
- July 20, 2017 – the SCC dismissed the application for leave to appeal - \$44 million will be added to the pool to be distributed to all creditors

# First Dividend to Compensation Creditors

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- On June 8, 2017, the Monitor declared the First Dividend for Compensation Creditors;
- The First Dividend is approximately 45.49% (Canadian dollars) of claims less amounts received from the Health and Welfare Fund (HWT) or Hardship Fund and any applicable tax withholdings;
  - A similar, separate, dividend was made to the administrator of the registered pension plans, Morneau Shepell totaling approx. \$860 million;
- We expect the next distribution(s) to be between 2.5% to 4% (cumulative), however, **the timing is not yet known.**

# There *may* be TWO sources of Claims for Former Employees

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## 1. Pension Plans:

- Claim of \$1.89 billion filed by administrator of pension plans, Morneau Shepell, for underfunding of the two pension plans (Negotiated and Managerial) on behalf of all members of the Plans;
- Nortel Estates First Dividend results in approx. \$860 million being paid to the two Plans. The amount will go first to the administrator who will recalculate the funded ratio and then at a later date this Dividend will be reflected in pension improvements and payouts to members.

## 2. Compensation Claims:

- Includes the payments on “First Dividend: Components & Tax Treatment” slide;
- These are the amounts being paid from Nortel in July 2017 by cheque;
- Receiving these payments will not affect your pension.



# First Dividend to Compensation Creditors

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- Difference between withholding and taxes:
  - Withholding tax is a retention of taxes that may be owing that is paid to the applicable government (provincial and federal).
- VS.
- Taxes owing on amounts received by a claimant will be determined when the Compensation Creditor files their taxes as it will depend on your other income and benefits and credits you may be entitled to.

# First Dividend: Components & Tax Treatment

Claim Type	Withholding Treatment
Base Severance Claim	Withholdings apply (including CPP/EI deduction apply)
All Medical and Dental	No withholdings (2011 Federal Budget)
Pensioner Life Insurance	<ul style="list-style-type: none"> <li>Withholdings apply (CPP/EI deductions apply)</li> <li>Taxability subject to HWT Tax Court Decision (for those who objected)</li> </ul>
LTD Income	No Withholdings
LTD Life Insurance	<ul style="list-style-type: none"> <li>Withholdings apply (no CPP/EI deductions apply)</li> <li>Taxability subject to HWT Tax Court Decision (for those who objected)</li> </ul>
Non-Registered Pension: Excess Pension, SERP, IPP, TRA and RAP	Withholdings apply (no CPP/EI deductions)
SIB/STB Benefits	<ul style="list-style-type: none"> <li>Withholdings apply (No CPP/EI deductions for in pay claimants)</li> <li>Taxability subject to HWT Tax Court Decision (for those who objected)</li> </ul>

NOTE: This is not tax advice, individual situations will apply.

# First Dividend – Other Deductions

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- Deductions have been made for past distributions from the Nortel Estate:
  - Health and Welfare Trust (HWT);
  - Hardship Fund; and
  - Advances for SIB/STB in-pay process.
- Amounts paid from the Termination Fund were already reflected in your Compensation Claims package.
- Other deduction:
  - EI repayments - ESDC
  - Tax withholdings (federal and provincial)
  - Advisor Fee – these fees were sanctioned by former employee Court Representatives for the development of beneficial alternatives to traditional pension plan windups and approved by the Court. These fees were not covered by the Estate since they were not beneficial to all claimants. As a result, these fees were applied to retiree medical and dental claims and amounted to approximately 0.4% of M&D claims.

# HWT Tax Appeal – Life Insurance + SIB/STB in pay

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- The August 2015 scheduled hearing was adjourned, but the Tax Appeal was finally heard by the Tax Court on August 25 and October 5, 2016.
- The Department of Justice requested the opportunity to provide written submissions on an issue, which they were granted. This was completed by November 24, 2016.
- A decision from the Tax Court is anticipated to be released some time in 2017.
- For those who filed objections, a favourable decision may result to a refund from the CRA;
  - May also affect the gross up provided in the Form A of all Compensation Claimants with a claim for life insurance and/or SIB/STB in pay.

# Registered Pension Plan Wind Up

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- Amounts you are receiving from the First Dividend are **separate** from amounts relating to the Registered Pension Plans administered by Morneau Shepell.
- The two Nortel Registered Pension Plans include:
  - Nortel Networks Negotiated Pension Plan (the “Negotiated Plan), and
  - Nortel Networks Limited Managerial and Non-Negotiated Pension Plan (the “Managerial and Non-Negotiated Plan”)
- The Pension Plan Administrator has received an interim distribution of \$860 million with respect to its \$1.89 billion claim for the shortfall in the pension plans
  - This will result in increased pensions or lump-sum payouts for most members

# Registered Pension Plan Wind Up

MANAGERIAL AND NON-NEGOTIATED PLAN			
Province	2011-2017	2017 Improvements	Post First Dividend Improvements (Late 2017)
Ontario	70% non-indexed	77.12% non-indexed	Over 90% (non-indexed)
Quebec	59% indexed	<ul style="list-style-type: none"> <li>• Retiree: 59% indexed</li> <li>• Non-Retiree: 63.73 indexed</li> </ul>	Proportional to ON depending on annuity prices and age (could be as much as 10-15% increase)
Pooled Jurisdictions	59% indexed	59% indexed	Proportional to ON depending on annuity prices and age (could be as much as 10-15% increase)
Nova Scotia	66% non-indexed	66% non-indexed	Proportional to ON depending on annuity prices and age (could be as much as 10-15% increase)

# Registered Pension Plan Wind Up

NEGOTIATED PLAN			
Province	2011-2017	2016/17 Improvements	Post First Dividend Improvements (Late 2017)
Ontario	75% non-indexed	79.59% non-indexed	Over 90% (non-indexed)
Quebec	57% indexed	<ul style="list-style-type: none"> <li>• Retiree: 62.65% indexed</li> <li>• Non-Retiree: 63.63 indexed</li> </ul>	Proportional to ON depending on annuity prices and age (could be as much as 10-15% increase)
Pooled Jurisdictions	57% indexed	67.21% indexed	Proportional to ON depending on annuity prices and age (could be as much as 10-15% increase)
Nova Scotia	66% non-indexed	82.5% non-indexed	Proportional to ON depending on annuity prices and age (could be as much as 10-15% increase)

# Registered Pension Plan Wind Up

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- Before lump-sum payouts can be made to Nortel retirees, a report must be filed with and approved by the Superintendent of Financial Services.
- Assuming this report is approved quickly, Morneau anticipates increasing pensions and providing retro-payments for most members near the end of 2017.
- Supplemental lump-sum payments will be made in the first half of 2018.
- Should additional payments be received from the Estate, further pension increases or lump-sums may be issued.



# Outstanding Matters

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- General costs for Representative Counsel continue to be paid from the Nortel Estate, with the exception of:
  1. Tax Appeal
  2. Registered Pension Plan issues
- Any amounts incurred for these two items will be applied to a future dividend of Compensation Creditors Koskie Minsky represents with court approval.

# Address Changes & Notifications of Deaths

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- Please keep the following informed of personal information changes (address, deaths, etc.):
  - **Koskie Minsky/Ernst & Young** – information is shared between these two therefore contacting either is sufficient;  
**KM: 1-866-777-6344**  
**EY: 1-866-942-7177**
  - **Morneau Shepell** – please also contact MS if you have registered pension  
**Negotiated: 1-877-392-2073**  
**Managerial and Non-negotiated: 1-877-392-2074**
- **Executors and Executrixes** – we recommend keeping estates open until after the final distribution as there may be more funds coming, however, the date is not yet known.

# Questions

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Please contact Representative Counsel at:

Email: [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca)

Toll-free hotline: 1-866-777-6344

# Monitor Update

# Monitor Update – Initial Distribution Mailing

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- ▶ A personalized Statement has been produced and mailed as of July 11, 2017 to each Compensation Creditor
- ▶ If you have not received a Statement by August 11, 2017, contact the Monitor
- ▶ A generic Guide to Initial Distribution was mailed separately in the same week to each Compensation Creditor
- ▶ An information session schedule was included with the Guide
- ▶ The Guide is available in English and French on the Monitor's website

# Monitor Update – Statements

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Two types of Statements:

## 1. Statement of Initial Distribution

- ▶ Cheque attached

## 2. Statement of Initial Distribution (Pending)

- ▶ No cheque at this time
- ▶ Statement indicates if you are pending for either of the following reasons:
  - ▶ Under review by ESDC for EI repayment
  - ▶ Direct RRSP contribution – delayed to allow for RRSP process to be completed
- ▶ Same information and format on both statements

# Understanding your Statement

# Understanding your Statement

## References

(A)	Aggregate Compensation Claim Amount	\$69,900.00	
(A1)	Less: HWT payments, gross	(3,724.03)	
(B)=A-A1	Compensation Claim for Initial Distribution	<u>66,175.97</u>	
(C)	Distribution Rate	45.492706%	
(D)=B x C	Distribution, gross (before advances)		\$30,105.24
(D)	Distribution, gross (before advances)	\$30,105.24	
(D1)	Less: advance(s) - Hardship Process, gross	0.00	
(D2)	Less: advance - SIB/STB In-Pay process, gross	<u>0.00</u>	
(E)=D-D1-D2	<b>Distribution, gross (after advances)</b>		\$30,105.24
<b>Withholdings and Deductions, on account of:</b>			
(F1)	Canadian Federal tax, excluding non-resident withholdings	\$(897.70)	
(F2)	Canadian Federal tax, non-resident withholdings	0.00	
(F3)	Quebec tax withholdings	0.00	
(F4)	CPP premium withholdings	(48.38)	
(F5)	EI premium withholdings	(72.98)	
(F6)	EI repayment deduction	0.00	
(F7)	Former Employee Advisors' fee deduction	(217.77)	
(F8)	Direct RRSP contribution	0.00	
(F9)	Other deduction(s)	<u>0.00</u>	
(F)=Σ (F1..F9)	<b>Total Withholdings and Deductions</b>		<u>\$(1,236.83)</u>
(G)=E-F	<b>Net Amount of Initial Distribution</b>		<u>\$28,868.41</u>
The amount of this cheque represents the Initial Distribution pursuant to the Plan of Compromise and Arrangement of the Canadian Debtors. Where applicable, the distribution related amounts will be reported on 2017 tax slip(s) by the applicable 2018 deadlines for inclusion in your 2017 income tax return.			
	Distribution, gross (after advances) subject to tax withholdings		\$4,477.38
	Distribution, gross (after advances) not subject to tax withholdings		<u>\$25,627.86</u>
(E)	Distribution, gross (after advances)		\$30,105.24
(H)	Eligible Retiring Allowance: Not Applicable		

See "Guide to Initial Distribution" mailed separately and available at [ey.com/ca/nortel](http://ey.com/ca/nortel) for additional information



# Understanding your Statement

(A)	Aggregate Compensation Claim Amount		\$69,900.00
(A1)	Less: HWT payments, gross		(3,724.03)
(B)=A-A1	Compensation Claim for Initial Distribution		<u>66,175.97</u>
(C)	Distribution Rate	45.492706%	
(D)=B x C	Distribution, gross (before advances)		\$30,105.24

Excerpt from Form A of “Your Information Statement Package”

Description	Your Claim Amount <sup>1</sup>
Pensioner Life (including ADB, if applicable) <sup>2</sup>	\$12,209
Post-Retirement Medical & Dental	\$51,212
Income Tax Gross Up <sup>3</sup>	\$1,357
Administrative Cost Gross Up <sup>4</sup>	\$5,122
<b>Aggregate Compensation Claim Amount</b>	<b>\$69,900</b>

# Understanding your Statement Claim Amount to Gross Distribution

(A)	Aggregate Compensation Claim Amount		\$69,900.00
(A1)	Less: HWT payments, gross		<u>(3,724.03)</u>
(B)=A-A1	Compensation Claim for Initial Distribution		<u>66,175.97</u>
(C)	Distribution Rate	45.492706%	
(D)=B x C	Distribution, gross (before advances)		\$30,105.24

A1	<ul style="list-style-type: none"> <li>▶ Amounts received previously from the HWT</li> <li>▶ Gross HWT payments, not the net amount</li> <li>▶ Declared Distribution             <ul style="list-style-type: none"> <li>▶ Pensioner Life - 31.2%</li> <li>▶ Income Beneficiaries* - 38%</li> </ul> <p style="margin-left: 40px;">*including LTD Beneficiaries for Pensioner Life</p> </li> </ul>
C	<ul style="list-style-type: none"> <li>▶ Distribution Rate 45.492706%</li> </ul>

# Understanding your Statement Advances

$(D)=B \times C$	Distribution, gross (before advances)		\$30,105.24
(D)	Distribution, gross (before advances)	\$30,105.24	
(D1)	Less: advance(s) - Hardship Process, gross	0.00	
(D2)	Less: advance - SIB/STB In-Pay process, gross	0.00	
$(E)=D-D1-D2$	Distribution, gross (after advances)		\$30,105.24

D1	<ul style="list-style-type: none"> <li>▶ Hardship payments are deducted from the distribution amount</li> <li>▶ Gross hardship payments, not the net amount</li> </ul>
D2	<ul style="list-style-type: none"> <li>▶ SIB/STB in-pay specific process</li> <li>▶ Gross SIB/STB in-pay, not the net amount</li> </ul>

# Understanding your Statement

## Tax Withholdings (F1 to F5)

- ▶ Tax withholdings, CPP and EI, are based on several factors specific to the individual (such as claim types, total amounts, age, residency)
- ▶ You may have an additional amount of tax owing or a tax refund when you file your 2017 tax return depending on your personal circumstances

Most components of your Compensation Claim\* are subject to tax withholdings with the exclusion of:

- ▶ Post-Retirement Medical & Dental
- ▶ LTD Medical & Dental
- ▶ STB Medical & Dental
- ▶ Administrative Gross-up
- ▶ LTD Income

\*Subject to reductions from related HWT payments and advances

	Distribution, gross (after advances) subject to tax withholdings	\$4,477.38
	Distribution, gross (after advances) not subject to tax withholdings	\$25,627.86
(E)	Distribution, gross (after advances)	\$30,105.24

# Understanding your Statement

## Other Deductions

(F6)	EI repayment deduction	0.00	
(F7)	Former Employee Advisors' fee deduction	(217.77)	
(F8)	Direct RRSP contribution	0.00	
(F9)	Other deduction(s)	0.00	
(F)=Σ (F1..F9)	<b>Total Withholdings and Deductions</b>		<u>\$(1,236.83)</u>
(G)=E-F	<b>Net Amount of Initial Distribution</b>		<u>\$28,868.41</u>

F6	<ul style="list-style-type: none"> <li>▶ EI Repayments as per ESDC</li> <li>▶ Those with “pending” will receive a revised Statement and net distribution once Nortel/Monitor is informed by ESDC of the repayment amount, if any</li> </ul>
F7	<ul style="list-style-type: none"> <li>▶ As previously discussed by Koskie Minsky LLP</li> </ul>
F8	<ul style="list-style-type: none"> <li>▶ Those who elected a direct RRSP Contribution by the deadline (June 8, 2017) will show “pending” and you will have received an Input Form due August 17, 2017</li> </ul>
F9	<ul style="list-style-type: none"> <li>▶ Specific situations</li> </ul>

# Understanding your Statement Eligible Retiring Allowance (H)

(G)=E-F      **Net Amount of Initial Distribution**      \$28,868.41

The amount of this cheque represents the Initial Distribution pursuant to the Plan of Compromise and Arrangement of the Canadian Debtors. Where applicable, the distribution related amounts will be reported on 2017 tax slip(s) by the applicable 2018 deadlines for inclusion in your 2017 income tax return.

	Distribution, gross (after advances) subject to tax withholdings	\$4,477.38
	Distribution, gross (after advances) not subject to tax withholdings	\$25,627.86
(E)	Distribution, gross (after advances)	\$30,105.24
(H)	<b>Eligible Retiring Allowance: Not Applicable</b>	

- ▶ Certain distribution amounts may qualify as Eligible Retiring Allowance (ERA)
- ▶ ERA increases your deduction limit for making RRSP contributions for the taxation year in which the ERA was paid
- ▶ If any part of your distribution may be considered an ERA, line “H” will show “Part of your distribution may be considered an Eligible Retiring Allowance”
- ▶ Otherwise, line “H” will show “Eligible Retiring Allowance: Not applicable”

# Eligible Retiring Allowance

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If Line (H) states “Part of your distribution may be considered an Eligible Retiring Allowance”, you met the following criteria:

1. You are 71 years of age or younger as at December 31, 2017;
2. You were alive as at the Record Date (June 29, 2017);
3. Nortel Records indicate you have pre-1996 years of service; and
4. Your Compensation claim includes:
  - a) TRA or RAP;
  - b) Base Severance; or
  - c) line 83 (Name of the company to which you were offered a deal as part of a transaction) on Form B of your Information Statement Package.

## Eligible Retiring Allowance - Part of your distribution may be considered an Eligible Retiring Allowance

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- ▶ In September, a Notice of Reportable Eligible Retiring Allowance will be sent to you which will indicate:
  - ▶ Retiring Allowance amount
  - ▶ Eligible Retiring Allowance amount; and
  - ▶ Reportable Eligible Retiring Allowance amount
- ▶ You will have an opportunity at that time to review and submit supporting documentation for changes requested

PLEASE NOTE: It is each individual's responsibility to ensure that their contributions related to ERA meet the requirements of the *Income Tax Act*. This information is general in nature only and should not be relied upon as legal or tax advice.



# Eligible Retiring Allowance

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If line (H) states “Eligible Retiring Allowance: Not Applicable” you did not meet the criteria for ERA based on Nortel records

- ▶ If you believe you meet the criteria for an ERA, advise the Monitor:
  - ▶ Via e-mail with the subject line “ERA”
  - ▶ A form requesting further information/support will be sent to you
  - ▶ Deadline for submission yet to be determined (est. October)
  
- ▶ If requested changes are:
  - ▶ Not accepted - Letter from the Monitor
  - ▶ Accepted - Notice of Reportable Eligible Retiring Allowance

# Tax Reporting

# 2017 Tax Reporting

- ▶ Next year, you will receive the appropriate tax slips (T4, T4A, RL1, RL2, NR4)
- ▶ The aggregate income reported on T4, T4A and NR4 slips will equal the gross distribution subject to tax withholdings
- ▶ The tax withholdings reported will equal to the sum of F1 to F3
- ▶ Reportable Eligible Retiring Allowance will be included on the tax slips

## Withholdings and Deductions, on account of:

(F1)	Canadian Federal tax, excluding non-resident withholdings	\$(897.70)	
(F2)	Canadian Federal tax, non-resident withholdings	0.00	
(F3)	Quebec tax withholdings	0.00	
(F4)	CPP premium withholdings	(48.38)	
(F5)	EI premium withholdings	(72.98)	
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(E)	Distribution, gross (after advances)	\$30,105.24

# Other Matters

# Other Matters

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## HWT

- ▶ The HWT wind-up is still underway
- ▶ Approximately \$2.5 million remains to distribute to all participating beneficiaries
- ▶ Any further distributions received from the HWT will reduce your Compensation Claim and future distribution from the Nortel estate
- ▶ Expect HWT distributions to be combined with any further estate distributions

## Tax Matters

- ▶ Qualifying Retroactive Lump Sum Payments (QRLSP)
- ▶ Potential impact of Tax Court decision

# Contact Information

## Monitor

### Ernst & Young Inc.

Tel: 1 (866) 942-7177 or (416) 943-4439

e-mail: [nortel.monitor@ca.ey.com](mailto:nortel.monitor@ca.ey.com)

[www.ey.com/ca/Nortel](http://www.ey.com/ca/Nortel)

## Representative Counsel

### Koskie Minsky

Email: [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca)

Toll-free hotline: 1-866-777-6344

## Registered Pension

### Morneau Shepell

Negotiated: 1-877-392-2073

Managerial and Non-negotiated: 1-877-392-2074