Canadian Investment Review

OSFI easing restrictions on pension portability transfers

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The Office of the Superintendent of Financial Institutions is relaxing its freeze on portability transfers to automatically permit pension plan members who are eligible for early retirement to transfer their commuted values to locked-in savings vehicles, subject to certain conditions.

At the end of March, the OSFI introduced a temporary freeze on portability transfers, meaning plan sponsors couldn't pay out commuted-value lump sums to members leaving the plan without consent from the regulator.

Pension plans that allow members who are within 10 years of their normal retirement age to take a portability transfer were caught under the portability transfer freeze. Now, as of May 7, 2020, the OSFI is easing the restrictions so plan sponsors can pay commuted-value lump sums to plan members who are within 10 years of receiving an unreduced pension without the regulator's consent.

Dean Newell, vice-president at Actuarial Solutions Inc., agrees the OSFI's revision helps plan members. "I think the portability freeze itself was a reaction to the unique circumstances of COVID-19. And I think, as they worked through this, they've understood that this was harming those people who were of retirement age and wanting to take the transfer and so they've had to backtrack a little bit to allow them the ability to get access to their transfers."

Federal rules allow a one-time unlocking of up to 50 per cent for people aged 55 years or older who are transferring a commuted value to a locked-in account, says John Prezioso, a partner at Brown Mills Klinck Prezioso LLP, noting people may have been counting on accessing some unlocked funds.

The OSFI change addresses the problem, he adds. "It's targeted relief to prevent financial hardship for folks who are needing access to the money today, while at the same time recognizing that you need to protect the plan and all the folks who were left behind whose benefits are not presently fully funded within the plan."

Lifting the freeze is helpful to plan members because they can invest that money in the market sooner, Newell notes. ". . . Your commuted-value calculation is tied to the financial markets and interest rates at that calculation date. And so, to a certain extent, it would be nice to be able to invest the money in those conditions, as close as possible, to the date your value was calculated."

While the OSFI is now relaxing the freeze, conditions remain to ensure the amounts paid out reflect a pension plan's financial position.

Specifically, the amount of the initial transfer can't exceed the commuted value of the pension benefit multiplied by the plan's solvency ratio either at its last actuarial valuation or at a date no earlier than March 31, 2020, whichever is lower. "You have this transfer ratio, which is effectively how well-funded the plan is, and you can transfer up to that percentage of the [commuted value],” says Prezioso. “You’re effectively giving the person who’s taking their value out a fraction of their commuted value.”

While the requirement is for plan sponsors to use the lower of either the most recent valuation or a solvency ratio no earlier than March 31, they may also choose to look at their funding positions later on; for example, at the end of April, as the markets have started to recover, Newell says.

Further, if the plan’s transfer ratio is less than one, meaning the plan is less than 100 per cent funded on a solvency basis, the full commuted value can be transferred if the plan administrator tops up the pension fund by the deficiency amount. “If there’s a shortfall in the plan — let’s just say your plan is 78 per cent funded — you can’t pay the full commuted value if you’ve got 22 cents on the dollar missing from the plan because you’re leaving the plan less well-funded for everyone else who is staying behind,” Prezioso notes. “So OSFI says, ‘We’ll allow you to make the full commuted-value transfer if you pay up the transfer deficiency.’”

A plan sponsor can also choose to pay the initial portion of the commuted-value lump sum and then transfer the deficiency at the earlier of five years from the date the commuted value was calculated or the date on which the solvency ratio of the plan is one, based on an actuarial report completed on March 31, 2020 or later. Any transfer deficiency must be paid with interest at the same interest rate used to calculate the commuted value.

Paying out a portion now and a portion later is essentially like an ‘IOU’ to the plan member who’s leaving, says Prezioso, noting his past experience is that plan sponsors usually top-up the plan and pay out full commuted values. “It’s administratively burdensome to keep track of all of these partial [commuted values] that you’ve paid, plus you’re going to pay interest on them. So if an employer does have the money to pay in the transfer deficiency, they typically will do that.”

Overall, the OSFI’s change is a measured step toward moving back to a normal situation where people can access their pension money, with some conditions, he says. “I think it’s a first step and, as the economic situation unfolds, we’ll probably see more initiatives in that vein as well.”
