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COVID-19: OSFI lifts pension portability freeze

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This *FYI* discusses the announcement from the Office of the Superintendent of Financial Institutions (OSFI) that its temporary portability freeze is lifted effective August 31, 2020, and the conditions applicable to transfers and annuity purchases going forward.

What was the freeze?

The freeze was implemented March 27, 2020 in response to market volatility produced by the COVID-19 pandemic. It applied to both defined benefit (DB) portability transfers and annuity purchases, and impacted the exercise of portability options by members on termination or retirement, the exercise of portability options in relation to death benefits, and transfers of spousal entitlements on marriage breakdown. During the freeze, administrators could request the Superintendent's consent to a transfer or annuity purchase in specific circumstances. The freeze did not impact benefit payments to retirees and beneficiaries.

Why was it lifted?

Pursuant to the letter issued to federally regulated private pension plans, and the regulator's COVID-19 FAQs, OSFI has determined that, while market volatility remains elevated, the recovery from the lows of mid-March has generally been well-sustained. In addition, the solvency ratios of federally regulated DB plans have improved since the freeze was implemented. As a result, and bolstered by the conditions on transfers and purchases discussed below, the regulator no longer feels that all portability transfers and annuity purchases impair pension fund solvency.

What conditions apply to portability transfers going forward?

Pursuant to the updated Directives of the Superintendent (Directives), the Superintendent of Financial Institutions (Superintendent) will now automatically grant consent to DB portability transfers, subject to the following conditions:

- The initial transfer amount cannot exceed the plan's transfer value, which is equal to the commuted value (CV) of the pension benefit multiplied by the plan's transfer ratio. The transfer ratio, which is a new addition to the Directives, is the lesser of the plan's solvency ratio determined in the most recent actuarial valuation report, and the same ratio projected to a date that cannot be earlier than March 31, 2020.
- Where an individual does not have their full CV transferred, the transfer deficiency must be transferred on the earlier of five years from the date the CV was calculated, and the date the plan's solvency ratio is determined to be at least one (based on an actuarial report with a valuation date of March 31, 2020 or later).
- For plans with a transfer ratio of less than one, the full CV can be transferred if either:
    - The administrator pays an amount equal to the transfer deficiency to the pension fund; or
    - The transfer deficiency for any single transfer is less than 20% of the YMPE for that year, provided the sum of all individual CV transfers made on this basis is less than 5% of the plan's assets at the valuation date of the most recent actuarial report.
- The transfer deficiency must include interest at the same rate used to determine the CV, from the date of the calculation to the date of the transfer.

Note that the above conditions apply to all portability options under section 26 of the *Pension Benefits Standards Act,* 1985 (PBSA), including individual annuity purchases. The above conditions do not apply to defined contribution (DC) plans, or to DB-DC combination plans.

The above conditions applicable to transfers from a plan with a transfer ratio of less than one have been modified from those in place prior to March 27, 2020 by increasing the YMPE threshold to 20% from 5%, basing the aggregate limit on the sum of all individual CV transfers rather than the sum of all transfer deficiencies paid out, and making the aggregate limit apply since the later of August 31, 2020 and the valuation date of the most recent actuarial report.

What conditions apply to annuity purchases going forward?

OSFI has reintroduced automatic consent for buy-out annuity purchases, subject to the following conditions:

- The plan's solvency ratio following the annuity purchase cannot be less than 0.85; or
- The administrator makes a payment to the pension fund to ensure that the plan's solvency ratio after the annuity purchase is the lesser of 0.85 and the plan's transfer ratio.

Note that the above conditions do not apply to buy-in annuities.

What's next?

With the lifting of the freeze, administrators of federally regulated plans must process individual member elections in accordance with the Directives. Administrators are advised to contact members to tell them that the freeze has been lifted, and to tell them when they expect to resume transfers.

If the Superintendent previously gave consent to a transfer or annuity purchase, that consent (and any applicable conditions) ceases to apply as of August 31, 2020, and is replaced by the conditions described above.

If a member has already elected a portability option, and provided all necessary supporting materials, the FAQs note that the member is not required to take any further action to have their benefit transferred out of the plan. As CVs are calculated as of the member's termination date, recalculations are only permitted where the recalculated amount will be greater than the CV as of the member's termination date, plus interest. In addition, note that administrators are required to add interest to the CV to reflect the payment delay.

In terms of options available to a terminating member, their entitlement is determined at the time membership ceased, not at August 31, 2020. For example, portability continues to be available to terminated members who reached eligibility for early retirement while the freeze was in effect.

While OSFI has indicated that it expects that plan administrators "make best efforts" to implement member elections as soon as possible, it acknowledges that it may take administrators time to adjust their administrative practices to reflect the revised Directives.

FAQ 12 notes that when a member receives their funds will depend on each plan's particular circumstances, and encourages members to give administrators time to process their requests before contacting them to request a status update.

Finally, while the temporary freeze has been lifted, OSFI notes that it may exercise its authority to reintroduce a portability freeze if future events require it.

For more information on these announcements and their impact on your organization, talk to your Buck consultant or contact the Knowledge Resource Centre at talktocanada@buck.com or +1 866 355 6647.

For the latest from Buck about the COVID-19 crisis, please refer to: https://buck.com/ca/expertise/covid-19-key-considerations-for-employers/

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