

Employee savings schemes: fees can erode employees' modest retirement savings if their new employer does not have a group plan

If an employee's new employer has not set up a group retirement plan (plan d'épargne pour la retraite collectif, or PERCO), the employee will have to pay the account-keeping fees for the PERCO at his or her previous employer until retirement¹. This can have particularly significant consequences if the retirement savings are modest.

It was only because the previous account-keeper provided incorrect information that, quite exceptionally, the funds were released after mediation.

The facts

Ms L., an employee of a company, participated in an employee savings scheme established by her employer.

She called her account-keeper to ask about the mandatory and discretionary profit-sharing she would receive in 2015. Her contact told her that, to avoid paying taxes on these savings, Ms L. should invest her mandatory profit-sharing and then ask to have these assets released on "termination of employment contract" grounds, but failed to inform her that, with PERCOs, she would be unable to access the share of her mandatory profit-sharing until she retired.

When she received her option form, Ms L. saw that the default choice would automatically lock up her mandatory profit-sharing. She therefore decided not to return her option form.

After she left the company, Ms L. therefore requested that her assets be released on "termination of employment contract" grounds. She then observed that some of her assets had not been released as requested.

She contacted her account-keeper once again. This institution told her that the remaining assets were assets that were 50% invested in her PERCO due to the default allocation and that they could not be released on "termination of employment contract" grounds.

Ms L. sent several written complaints to her account-keeper and specified that she did not have a PERCO at her new employer. Her assets would therefore remain locked up, at her expense, until she retired. The risk was that fees would erode all of her modest employee savings. In its response, the account-keeper refused to agree to this request for reimbursement.

Ms L. therefore asked me to help her obtain reimbursement for the assets invested in her PERCO.

The analysis

After reviewing the information provided by Ms L., I contacted the account-keeper and asked to receive the documents proving that she had been properly informed about what a PERCO is and what its implications are, in particular regarding the release of funds.

This institution acknowledged that Ms L. likely did not have all the information needed to understand the PERCO, after playing back the phone call between the account-keeper's customer service department and Ms L., but also that the PERCO had been established shortly before Ms L. left the company.

¹ "Employee savings schemes: termination of an employment contract does not constitute a reason for the early release of funds from a PERCO plan" (published on 2 February 2017)

The recommendation

I was struck in particular by two aspects of this case.

First, it appeared that the information provided over the phone to the investor about her participation in the PERCO was incorrect.

Second, Ms L. did not have a PERCO at her new employer. Her assets would therefore remain locked up until she retired (except for the rare scenario in which funds are released early) and she was now responsible for the account-keeping fees. This led to a significant decrease in the modest funds she had in her PERCO.

As Ms L. had been misled, I therefore recommended that the account-keeper resolve the matter, which it agreed to do in this particular case, by releasing the amount corresponding to the assets remaining in her PERCO.

The lesson to be learned

The lack of a PERCO at a new employer is thus a concrete example of the problems the AMF Ombudsman's Office is seeing with increasing frequency. Although in this instance the outcome was favourable for Ms L., this is rarely the case.

As the AMF Ombudsman, I would like to begin discussions to find a solution to this issue of the ongoing fees charged to employees for PERCOs when their new employer has not implemented this type of plan.

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