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By Liam Vaughan
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Investment bankers in the U.S. have begun using equity derivatives to convert restricted shares paid as bonuses into cash, side-stepping new guidelines on remuneration which were designed to prevent bankers cashing out for at least three years, according to a headhunter.

The bankers are using over-the-counter equity derivatives strategies such as call options, put options and collars to monetise their shares now, albeit at a discount to what they would receive if they waited for the restrictions to lift.

The revelation comes as global regulators seek to put an end to large cash bonuses in favour of deferred awards which tie bankers' compensation to long-term performance.

Gustavo Dolfino, senior managing director of U.S. business services firm Accretive Solutions, said some top earners at investment banks have negotiated to receive the shares component of their bonuses in restricted stock that is already vested or soon to vest. The stock is still subject to restrictions, for example on when it can be sold in the open market. However, because it is vested, they are able to turn it into cash by trading derivatives.

It is not clear how many bankers have used this mechanism, but Dolfino said: "The vesting provision allows these executives to take advantage of a financially engineered legal loophole which lets corporate insiders with concentrated equity positions and holders of control, restricted and M&A stock to monetise that stock.

"Rather than wait three or five years for the restrictions to pass, bankers would rather take a discount of up to 50% now just to get out and do something else."

Employment lawyers and compensation consultants said they had seen no evidence of the practice catching on in Europe. One lawyer said that while using derivatives to cash out restricted stock early was technically possible here, it was unlikely to become widespread due to the prevailing political mood.

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