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SECTION: Locked-In Accounts

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TITLE: Schedule 1.1 Life Income Funds (New LIFs)  
- Regulation 909, Schedule 1.1

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This policy replaces L200-302 (Schedule 1.1 Life Income Funds (New LIFs)), as of the effective date of this policy.

*Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.*

*Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca). All pension policies can be accessed from the Pensions section of the website through the Pension Policies link.*

### **New Life Income Fund**

Section 42(1)(b) of the PBA provides that a former member of a pension plan is entitled to require the administrator to pay an amount equal to the commuted value of the former member's deferred pension into a prescribed retirement savings arrangement" (referred to in this policy as a "locked-in account").

The rules which prevent the unlocking of money in locked-in accounts are found in section 67 of the PBA. Section 67 states that a prescribed retirement savings arrangement resulting from a purchase or transfer under section 42 of the PBA is not capable of being commuted or surrendered, in whole or in part, during the person's life, unless otherwise provided under the PBA or Regulation.

This policy provides an overview of the main features and requirements of one such locked-in account, the Ontario life income fund (LIF) governed by Schedule 1.1 to the Regulation

(Schedule 1.1). This account will be referred to as the “New LIF.”

A New LIF is a personal retirement income fund for money that was earned in a pension plan and accumulates on an income tax-sheltered basis. Income must be paid from the New LIF each year, up to a maximum limit that changes each year. The amount paid out is taxable as income.

The New LIF is designed to provide annual income to the owner during his/her retirement up to age 90, at which time he/she may be paid the balance in the fund. In addition, up to 50% of the money transferred into a New LIF from a pension plan or a locked-in retirement account (LIRA) may be withdrawn in cash or transferred to an unlocked registered retirement savings plan (RRSP) or registered retirement income fund (RRIF). This can only be done within 60 days from the date the money was transferred into the New LIF from a pension plan or a LIRA.

Before January 1, 2008, the only type of life income fund available in Ontario was a LIF governed by Schedule 1 to the Regulation. This LIF became known as the “Old LIF” when the New LIF was introduced on January 1, 2008. While money can no longer be transferred into existing Old LIFs and Old LIFs can no longer be purchased, existing Old LIFs are still governed by Schedule 1. Since January 1, 2011, the rules that govern existing Old LIFs and locked-in retirement income funds (LRIFs) have been largely harmonized with the rules governing New LIFs. For additional information about Old LIFs and LRIFs, please refer to FSCO pension policy L200-301 (Old LIFs) and L200-500 (LRIFs).

## **General provisions of the New LIF**

### Income Tax Act requirements and the New LIF

New LIFs may be structured in any manner as long as they satisfy the requirements of the PBA and Regulation and the requirements under the federal Income Tax Act (ITA) for a RRIF. A New LIF may be self-directed. All New LIFs must qualify as RRIFs.

In essence, all LIFs are RRIFs with additional requirements. For additional information regarding RRIFs, contact the Registered Plans Directorate of the Canada Revenue Agency (CRA) at 1-800-267-3100 or visit the [CRA website](#).

### Who can sell a New LIF

The New LIF may be sold by any financial institution as long as the institution complies with the requirements of the ITA. The financial institution must agree to administer any money transferred into the New LIF and all interest and investment earnings in accordance with the requirements of the PBA and Regulation.

Vendors of New LIFs include insurance companies, banks, trust companies, credit unions, caisse populaires, investment companies and other financial institutions authorized to sell RRIFs.

Unlike some other Canadian jurisdictions, Ontario does not require financial institutions to submit their New LIF contracts for approval, nor does the Financial Services Commission of Ontario (FSCO) maintain a list of approved New LIF contracts. FSCO does not register New LIFs and will not review specimen New LIF contracts for compliance.

#### Who can purchase a New LIF

In this policy, “purchasing” a New LIF refers to transferring money to a financial institution to establish a New LIF.

As long as an individual satisfies the age restriction and spousal consent requirement set out later in this policy, a New LIF may be purchased by:

- a member of a registered pension plan who terminates employment or plan membership and is entitled to portability rights to transfer the commuted value of his/her pension to a locked-in account;
- a spouse/former spouse of a pension plan member who is entitled as a result of a breakdown in their spousal relationship to a portion of the member’s commuted value; and
- an individual with money in an existing locked-in account.

An Old LIF cannot be converted into a New LIF. The New LIF is a completely distinct locked-in account from the Old LIF. If the owner of an Old LIF wants a New LIF, he/she must purchase a New LIF by transferring money from the Old LIF into a New LIF.

In addition, individuals receiving payments from a guaranteed annuity that was purchased using pension plan money after October 1992 may commute the unexpired period of the annuity’s guarantee period to purchase a New LIF (section 22(1)(c) of the Regulation). The insurer who issued the annuity must agree to commute the annuity and must identify the commuted value of the annuity and the amount that will be available for the New LIF purchase (section 22(2) of the Regulation). The difference between the two amounts, if any, is the charge applied to make the purchase. If a guaranteed annuity was purchased before October 1992, the owner may commute the unexpired period of the annuity’s guarantee period to purchase a New LIF only if the insurer that issued the annuity agrees to the commutation.

#### Age restriction

There is an age restriction on when an individual can purchase a New LIF. Subject to the spousal requirements described below, section 5(1) of Schedule 1.1 provides that payments out of a New LIF must begin no earlier than the earliest date on which the individual would have been entitled to receive a pension under any pension plan from which money was transferred into the New LIF directly or indirectly (the age at which the owner would have been entitled to commence early retirement benefits).

Section 5(2) of Schedule 1.1 provides that payments out of a New LIF must begin no later than the end of the second fiscal year of the fund. The combined effect of these provisions means that an individual could purchase a New LIF at any time in the calendar year that precedes the year in which he/she reaches early retirement age under the terms of any former pension plan.

For example, if the early retirement age under the originating pension plan is 55, and the owner of a LIRA who was a member of that plan turns 55 in November 2012, he/she could have purchased a New LIF as early as January 1, 2011. Income payments from this New LIF will begin before the end of 2012.

When transfers are made from a registered pension plan to a New LIF, the financial institution to which the money is transferred should ensure that the pension plan administrator identifies the earliest date the owner could have retired under the pension plan, even if the pension would have been payable as a reduced pension. Where this information is not provided, the financial institution should not begin payments earlier than age 55 unless it has satisfied itself that the pension plan would have permitted it. For example, the financial institution might ask the individual to produce a copy of the plan provisions or may contact the plan administrator directly.

Effective January 1, 2012, where a spouse/former spouse of a plan member wishes to transfer locked-in money from a pension due to a breakdown in the spousal relationship to the spouse or former spouse's New LIF, payments from the New LIF must begin no earlier than the date the spouse/former spouse reaches age 55 (section 5(1.1) of Schedule 1.1). Since payments from the New LIF must begin no later than the end of its second fiscal year, the spouse or former spouse can purchase the New LIF starting on January 1 of the year before the spouse or former spouse is 55.

### Spousal Consent

An individual who has a spouse on the day a New LIF is purchased requires the written consent of the spouse to make the purchase (section 1(3) of Schedule 1.1). However, if due to a breakdown in the spousal relationship, the individual is living separate and apart from his/her spouse on the purchase date, the spouse's consent is not required (section 1(3)(a) of Schedule 1.1). In addition, if all the money to be used to purchase the New LIF comes from the pension benefits of the purchaser's former spouse due to a breakdown in a previous spousal relationship, the consent of the purchaser's current spouse is not required (section 1(3)(b) of Schedule 1.1). For example, Mr. and Mrs. Smith divorced and Mrs. Smith transferred a portion of her pension to Mr. Smith, who used it to open a LIRA. Mr. Smith subsequently remarried. If Mr. Smith now wants to use the money in this LIRA to purchase a New LIF, he does not need the consent of his current spouse to purchase the New LIF.

FSCO does not issue a spousal consent form. FSCO pension Form 3 (Waiver of Joint and Survivor Pension), Form 4 (Waiver of Pre-Retirement Death Benefits) and Form 4.1 (Waiver of Survivor's Benefits from an Ontario Locked-In Account) cannot be used for the spousal consent to purchase a New LIF, or be modified for such use. By consenting to the purchase of a New LIF, a spouse is not waiving his/her entitlement to survivor benefits.

The spouse should be aware that he/she is not required by law to provide consent; to do so is solely at his/her option. However, in situations requiring a consent, a New LIF cannot be purchased unless consent is given. Spouses may want to withhold consent to the purchase of a New LIF for various reasons. For example, annual payments from a New LIF may reduce the amount of any future survivor benefit or the amount to be divided upon the breakdown of the marriage or spousal relationship. Because the New LIF may be invested in the markets at the direction of its owner, investment losses may occur and reduce the balance in the New LIF.

Spouses may wish to consider seeking independent legal advice about the implications of providing consent.

#### Ontario members of federally-regulated plans and multi-jurisdictional plan members

Ontario members of pension plans regulated under the federal Pension Benefits Standards Act, 1985 (PBSA) who were employed in “included employment” as defined in the PBSA are not eligible to purchase an Ontario New LIF. Included employment means a federally-regulated industry, such as banking, interprovincial transportation, mining and others. These individuals are restricted to purchasing retirement vehicles that are provided for under the PBSA, including a federally-registered life income fund.

An owner of an Ontario New LIF cannot combine the money in it with another LIF or locked-in account governed by the pension laws of another jurisdiction.

#### Transferring funds from a New LIF

Section 7 of Schedule 1.1 provides that money in a New LIF, including any accrued interest and any other investment earnings, may only be transferred to another New LIF or to an insurance company for the purchase of an immediate life annuity. Money cannot be transferred from a New LIF to a LIRA, Old LIF or LRIF.

Money in a New LIF may be transferred to a financial institution in another jurisdiction in Canada if the transferee institution agrees in writing to administer the money in the New LIF in accordance with the PBA and Regulation. However, money in a New LIF cannot be transferred to a financial institution outside Canada, as Ontario cannot enforce its legislated requirements outside Canada.

#### Transferring Funds into a New LIF

Money may be transferred into a New LIF from another New LIF, an Old LIF, an LRIF, a LIRA, a registered pension plan or an insurance company in relation to the unexpired guarantee period of a guaranteed life annuity purchased with pension money.

### **The 50% Unlocking Withdrawal or Transfer**

Every time money is transferred into a New LIF from a LIRA or a registered pension plan on or after January 1, 2010, the New LIF owner may apply to unlock and withdraw in cash, or transfer to an RRSP or RRIF, up to 50% of the “total market value of the assets” that were transferred into the New LIF (section 8(2.1) of Schedule 1.1). The “total market value of the assets” is the amount of money that was transferred into the New LIF on the date of the transfer, but does not include any increase or decrease in its value after the transfer.

The 50% unlocking and withdrawal option does not apply to money transferred into a New LIF from another New LIF, an Old LIF, an LRIF or a life annuity. However, if money is being transferred from an individual’s New LIF, Old LIF or LRIF to a New LIF owned by the spouse/former spouse in accordance with the terms or order under the Family Law Act, a family

arbitration award or a domestic contract, the 50% unlocking and withdrawal option will be available for the money transferred into the spouse's or former spouse's New LIF (section 8(3) of Schedule 1.1).

The application for an unlocking withdrawal or transfer must be made to the financial institution that administers the New LIF on FSCO pension Form 5.2 within 60 days after the date the money was transferred into the New LIF (section 8(4) of Schedule 1.1).

The 60 day period for making an application begins on the date the money is transferred into the New LIF. Where a single transfer transaction takes place in stages over a period of time, the 60 day period begins when the last portion of the money related to that transfer transaction is received. For example, when an individual wants to transfer money to a New LIF from a LIRA consisting of securities, the market value of each security cannot be determined until each security has been transferred. It is common for securities to be transferred on different days as part of that transfer transaction. When the last transfer of securities is received, the final market value of the money that has been transferred into this New LIF can be determined, and on that date, the 60 day period begins.

The total market value of the money transferred into the New LIF must be stated in FSCO pension Form 5.2, and the owner cannot sign the certification on the form until this is done. The financial institution that administers the New LIF should inform the owner in advance that when there is a single transfer transaction in partial stages, he/she will be able to apply for the 50% unlocking withdrawal or transfer only when the institution receives the last deposit of money for that transaction.

However, when an owner makes a number of separate and distinct transfers to his/her New LIF, these are considered to be multiple transfer transactions and a new 60 day period begins for each transfer. It is up to the financial institution to differentiate between a single transfer transaction occurring in stages and numerous distinct transfers.

The New LIF owner may make only one application for a 50% unlocking withdrawal or transfer for money transferred into it. The financial institution cannot accept an application if the owner fails to apply for the withdrawal or transfer within 60 days. The money that is withdrawn or transferred must be either entirely withdrawn in cash or entirely transferred directly to an RRSP or RRIF. It cannot be partly withdrawn in cash and partly transferred directly to an RRSP or RRIF.

The 50% unlocking withdrawal or transfer is distinct from, and in addition to, the maximum annual income that can be paid from the New LIF (see section on Annual Income Payments below). The owner can unlock and withdraw or transfer up to 50% of the money transferred into a New LIF and can then be paid the maximum annual income from the New LIF. The maximum annual income payment is based on the balance of the New LIF at the start of the fiscal year, regardless of any amount subsequently withdrawn or transferred. For example, a New LIF is purchased with a \$100,000 deposit on the date of purchase. Fifty days later, the owner withdraws 50% of the \$100,000, leaving \$50,000 in it. The maximum annual income payment is based on the amount in the New LIF on the first day of its fiscal year, which was \$100,000.

When the New LIF was introduced in 2008, the maximum amount that could be unlocked and withdrawn or transferred each time money was transferred into it was 25% of the transferred amount. Effective January 1, 2010, this maximum was changed to 50% of any amount that was transferred into the New LIF after December 31, 2009. Individuals who had transferred money into a New LIF before January 1, 2010, could apply to unlock and withdraw or transfer an additional 25% of the total amount transferred into their New LIF before January 1, 2010, but this option ended on December 31, 2010 (section 8.1 of Schedule 1.1).

## **Annual Income Payments**

### Requirements for annual income payments

A certain amount must be paid out of a New LIF as income to the owner each fiscal year, except in the initial year of the New LIF. The New LIF owner may choose not to be paid any money in the first year, but must begin receiving income payments from it before the end of the second year. The fiscal year of a New LIF must end on December 31 and may not exceed twelve months. When a New LIF is purchased at any time other than January 1, the first fiscal year begins at the date of the purchase and the maximum annual income payment for the first year, if any, must be prorated over the shortened year.

Income payments from a New LIF must begin no earlier than the earliest date on which the owner would have been entitled to receive a pension under any pension plan from which money was transferred into the New LIF, directly or indirectly. Where the normal retirement age is 65, a member would be entitled to receive an early retirement pension within ten years of reaching the normal retirement date, which would be age 55. This individual is therefore eligible to receive income payments from his/her New LIF at 55. If normal retirement age in a plan is 60, an individual could begin receiving income payments from his/her New LIF at age 50.

Where money from more than one pension plan has been transferred to a New LIF, the earliest retirement date under any of these pension plans would determine the earliest date on which income payments from the New LIF can begin. It is the owner's responsibility to provide the earliest date on which income payments can begin based on the provisions of the former pension plan(s) to the financial institution.

At the beginning of each fiscal year, the financial institution that administers the New LIF must inform the owner of the value of the assets in the New LIF as of the beginning of the fiscal year, the minimum income amount that must be paid to the owner during the fiscal year, and the maximum income amount that may be paid to the owner during the fiscal year. The owner should then notify the financial institution of how much income he or she wishes to be paid for that year and how these payments are to be made. If the financial institution is not notified, it will pay the owner the minimum amount required for that year under the ITA.

### Minimum income payment formula

The minimum income that must be paid from the New LIF each year is based on the formula for minimum RRIF payments as prescribed under section 7308 of the federal Income Tax Regulations. For individuals who have not yet reached the age of 71 as of January 1 of a particular year, the minimum is calculated by dividing the balance in the New LIF at the beginning of the fiscal year by an amount equal to 90 minus the owner's age as of the beginning of the calendar year. For individuals who have reached the age of 71 as of January 1 of the year in question, the minimum amount must be calculated in accordance with the formula in the Income Tax Regulations.

If the New LIF owner has a spouse, the owner may make a one-time election under the ITA rules to use the spouse's age to calculate the minimum income amount.

If the minimum income amount that must be paid is greater than the maximum income amount that may be paid for the year, the minimum income amount must be paid.

### Maximum income payment formula

Regular income payments from the New LIF are subject to a maximum annual limit. The maximum that may be paid each year is the greater of:

1. The amount determined under a prescribed formula, which is found in section 6(1) of Schedule 1.1 (the "LIF formula"); or
2. The amount of investment earnings attributable to the New LIF in the previous fiscal year including any unrealized capital gains or capital losses of the fund.

There are also specific rules for the maximum amount that may be paid in the initial year of the New LIF, in the following year and when new money is transferred during a year into a new or existing New LIF (see below).

### **Amount determined under the LIF formula**

The amount determined under the LIF formula is calculated by dividing the balance of the New LIF at the beginning of the fiscal year by an amount calculated using an actuarial formula: the present value at the beginning of the fiscal year of an annuity of \$1, payable annually in advance over the period from the beginning of the fiscal year until the end of the year in which the owner reaches ninety years of age.

The Regulation also prescribes using certain interest rate assumptions for the actuarial formula (for the first 15 years, the greater of 6% or the prescribed rate published for the previous November in the *Bank of Canada Review* under identification number CANSIM V122487, and for the sixteenth and each subsequent fiscal year, 6%). These prescribed interest rates (CANSIM V122487 and 6%) are not the maximum percentages that may be paid out of the New LIF each year, but are simply the factors used in the actuarial formula to determine the maximum income payment amount.



Each year in December, FSCO publishes a policy which includes a table of the maximum percentage of the New LIF's balance as of the start of the upcoming fiscal year that can be paid from the New LIF as income that year under the LIF formula. Financial institutions can also determine this percentage when the November CANSIM V122487 rate is published.

### **Amount of investment earnings attributable to the New LIF in the previous fiscal year**

The amount of investment earnings attributable to the New LIF in the previous fiscal year can be calculated by:

1. Subtracting the balance of the New LIF at the start of the previous fiscal year from the balance at the end of the previous fiscal year,
2. Adding any amounts moved out of the New LIF during the fiscal year, for example, income payments, transfers to different locked-in accounts, unlocking withdrawals, and transfers made as a result of special applications, and
3. Subtracting any new amounts moved into the New LIF during the fiscal year, for example, transfers from other locked-in accounts.

The following example is used to illustrate the calculation.

A New LIF at the start of a fiscal year was \$50,000 and the balance of the New LIF at the end of the fiscal year was \$60,000. During the fiscal year, the owner was paid \$5,000 from the account as income and transferred \$3,000 into the New LIF from a LIRA, from which he withdrew 50% of the transferred amount or \$1,500.

The investment earnings attributable to that fiscal year would be the balance at the end of the year (\$60,000) minus the balance at the start of the year (\$50,000), plus the amounts moved out during the year (\$5,000 in income payments plus \$1,500 withdrawn, for a total of \$6,500), minus the amount transferred in from the LIRA (\$3,000), which equals \$13,500.

In calculation format, the example would be:

	Balance at end of the year	\$60,000
<Minus>	Balance at start of the year	-
		\$50,000
<Plus>	Total amount paid, withdrawn or transferred out during the year	+
		\$6,500
<Minus>	Total amount added during the year	-
		\$3,000
Total Investment Earnings Attributable for the Year		=
		\$13,500

## **Fiscal year in the year of transfer from a locked-in account or a registered pension plan**

### **(i) Transfer to a new New LIF**

In any year in which money is transferred to a New LIF from another New LIF, an Old LIF or an LRIF, the maximum income amount that can be paid from the receiving New LIF for that year is reset to zero (subject to any minimum income amount required to be paid under the ITA rules) (section 6(3) of Schedule 1.1).

For example, Ms. Jones owns a New LIF with a balance of \$100,000 on January 1. The maximum amount she can be paid from the New LIF for the year in question is \$10,000 which she decides to receive in monthly payments of \$833.33. Ms. Jones receives her payments at the beginning of January and February, and then transfers \$50,000 into this New LIF from an Old LIF she owns. At this point, the maximum income Ms. Jones may be paid from the receiving New LIF is reset to zero. To ensure that this does not happen, Ms Jones should have arranged to be paid the full income from her New LIF for the year (\$10,000) before she transferred in any new amounts.

In any year in which money is transferred to a new New LIF from a registered pension plan or a LIRA, the maximum income that can be paid from the new New LIF in that year is calculated based on the amount in the new New LIF at the start of the fiscal year (and if the fiscal year is less than 12 months long, prorated over the number of months remaining in the fiscal year, with a partial month counting as a full month). For example, if an individual transfers money from a LIRA to a new New LIF on May 15, the maximum income that can be paid for that year would be calculated based on the amount in the new New LIF at the date of purchase multiplied by the applicable percentage based on the person's age, divided by 8 (the months remaining in the year, including May) (section 6(4) of Schedule 1.1).

### **(ii) Transfer to an existing New LIF**

However, if money from a registered pension plan or a LIRA is added to an existing New LIF any time after January 1, the maximum income that may be paid from the New LIF for that year is still based on the amount that was in the New LIF on January 1, the beginning date of the fiscal year.

When money is transferred from a New LIF to another New LIF or to purchase a life annuity, leaving no money in the transferring New LIF, no further income can be paid to the owner for that fiscal year from the transferring New LIF. To ensure that the owner receives the maximum income possible for the transfer year, he/she should arrange to receive all income payments from the transferring New LIF before the transfer. Alternatively, the owner should leave enough money in the transferring New LIF to be paid the rest of the maximum income for that year. In either case, the transfer should be structured so that the owner will be paid at least the minimum income from the transferring New LIF that year as required under the ITA.

### **Fiscal year following year of transfer from another New LIF, Old LIF or LRIF**

For the fiscal year following a fiscal year during which money was transferred into the New LIF from another New LIF, an Old LIF or an LRIF, the maximum annual income payment is the greatest of:

1. the amount determined under the LIF formula;
2. the amount of investment earnings attributable to the New LIF in the previous year; and
3. the investment earnings attributable to the transferring fund in its previous fiscal year up to the date of transfer, plus the investment earnings attributable to the receiving New LIF for the previous fiscal year (see section 6(1)2 of Schedule 1.1).

For example, for the year in question, from January 1 to March 31, an LRIF earned \$10,000. On April 1, the owner transfers all the money in this LRIF to a New LIF. From April 1 to December 31, the New LIF earned \$5,000. For the next year, the maximum annual income would be the greater of the amount determined under the LIF formula, the investment earnings attributable to the New LIF in the previous year (\$5,000), or the investment earnings attributable to the LRIF and the New LIF in the previous year (\$15,000).

Note that the maximum annual limit on regular income payments from the New LIF does not apply to the special applications to unlock and withdraw or transfer money from a New LIF described below. The maximum income limit for a year does not change if money is unlocked and withdrawn or transferred under one of these special applications.

If the owner of a New LIF chooses to be paid the minimum annual income in cash and transfers the difference between the minimum and maximum annual income payment amount to an RRIF or RRSP, his/her total annual income for the year from the New LIF, for the purposes of the PBA and Regulation, will be the maximum annual income amount. For example, if the maximum amount that may be paid from a New LIF for the year is \$10,000 and the minimum amount that must be paid from the New LIF that year is \$3,000, the owner can be paid \$3,000 in cash and transfer \$7,000 to his RRSP. However, for purposes of the PBA and Regulation, his income payment for the year will be \$10,000.

### **Spousal Death Benefits**

When a New LIF owner dies, the owner's spouse at the time of death is generally entitled to receive a spousal death benefit. This is an amount equal to the value of the assets in the New LIF at the time of death and includes all accumulated investment earnings as well as any unrealized capital gains and losses in the account, from the date of death until the date of payment (section 14 of Schedule 1.1).

However, if the New LIF owner and his or her spouse are living separate and apart at the time of the owner's death due to a breakdown in their relationship, the spouse is not entitled to the spousal death benefit unless the spouse has been named a beneficiary by the owner.

The spouse of the New LIF owner may waive his/her entitlement to receive the spousal death benefit by delivering to the financial institution holding the New LIF a completed and signed

waiver on FSCO pension Form 4.1 (Waiver of Survivor's Benefits from an Ontario Locked-in Account). A spouse may cancel this waiver by delivering a written and signed notice of cancellation of the waiver to the financial institution before the death of the New LIF owner. There is no prescribed form for the waiver cancellation.

If the New LIF owner has no spouse at the time of death, or if the spouse of the New LIF owner has waived entitlement to the spousal survivor benefit, or if the New LIF owner and spouse are living separate and apart on the date of the owner's death due to a breakdown in their relationship, the named beneficiary of the New LIF owner is entitled to the death benefit. If there is no named beneficiary, the owner's estate is entitled to receive the death benefit.

The death benefit is not locked-in and may be received in cash. In addition, the surviving spouse may transfer the spousal death benefit directly to his/her own RRSP or RRIF, in accordance with, and if permitted by, the provisions of the ITA. However, the New LIF comes to an end with the death of the owner. The surviving spouse cannot "step into the owner's shoes" and continue the New LIF in the spouse's name; the spouse must be paid the value of the New LIF or transfer the money (or assets) to his/her own account.

### **Division of the money in the New LIF on the breakdown of the spousal relationship**

On January 1, 2012, new provisions under the PBA and the Ontario Family Law Act (FLA) regarding the valuation and division of pension benefits on the breakdown of a spousal relationship came into effect (sections 7(5) and 7(5.1) of Schedule 1.1). These rules apply to the division of money in a New LIF under a court order, family law arbitration award or domestic contract made in accordance with the rules under the PBA and FLA.

A New LIF owner and his/her spouse or former spouse may divide the money in the New LIF in accordance with the court order, family law arbitration award or domestic contract provided that no more than 50% of the money in the owner's New LIF as of the family law's valuation date can be assigned to the spouse or former spouse.

### **Other general provisions**

#### No commutation or surrender

Money in a New LIF cannot be commuted, withdrawn or surrendered in whole or in part except as permitted under the PBA or Regulation. However, this prohibition does not prevent annual income payments from a New LIF or the unlocking and withdrawal or transfer of money from it under the 50% withdrawal or transfer option described above or the following special applications (also see section below on Withdrawals and transfers from the New LIF – Special Applications):

- shortened life expectancy (section 11 of Schedule 1.1);
- small amounts for individuals who are at least 55 years of age (section 9 of Schedule 1.1);
- excess contributions above the ITA limit (s. 22.2 of the Regulation);

- non-residents of Canada (section 10 of Schedule 1.1); and,
- financial hardship (Regulation, Part III).

#### No differentiation on the basis of sex

The contract for the New LIF must contain a statement as to whether the amount transferred to the New LIF was determined in a manner that differentiated on the basis of sex (section 2(6) of Schedule 1.1). This is required so that in the event an annuity is eventually purchased using the money in the New LIF, the annuity cannot differentiate on the basis of the sex of the New LIF owner unless the initial transfer amount was determined on a sex distinct basis (section 7(6) of schedule 1.1). Locked-in money that represents the value of the pension earned on or after January 1, 1987, must be determined in a manner that does not differentiate on the basis of sex.

### **Information for financial institutions**

#### Information that must be provided by the financial institution

A contract establishing a New LIF must include the following (section 2 of Schedule 1.1):

- the name and address of the financial institution providing the New LIF;
- a description of the owner's powers, if any, about investment of the money in the New LIF;
- a statement that the owner agrees not to assign, charge, anticipate or give as security, money payable under the New LIF, except if required by a court order under the Family Law Act, a family arbitration award or a domestic contract;
- a description of the method for determining the value of the assets in the New LIF; and
- whether the commuted value of the pension benefit that was transferred into the New LIF was determined in a manner that differentiated on the basis of sex.

At the beginning of each fiscal year, the financial institution administering the New LIF must provide the following information to the owner with respect to the previous fiscal year (section 17(2)1 of Schedule 1.1):

- the sums deposited;
- any accumulated investment earnings, including any unrealized capital gains or losses;
- the payments made out of the New LIF;
- the withdrawals taken out of the New LIF; and,
- the fees charged against the New LIF.

At the beginning of the fiscal year, the financial institution must also provide to the owner (section 17(2)2, 3 and 4 of Schedule 1.1):

- the value of the assets in the New LIF as of the beginning of the fiscal year;
- the minimum income amount that must be paid out of the New LIF to the owner during the current fiscal year; and,

- the maximum income amount that may be paid out of the New LIF to the owner during the current fiscal year.

When money is transferred out of the New LIF, the financial institution must provide the owner with the above information as of the date of the transfer (section 17(3) of Schedule 1.1).

When the owner dies, the person entitled to receive the money in the New LIF must be given the same type of information required to be given at the beginning of the fiscal year, but determined as of the date of the owner's death (section 17(4) of Schedule 1.1).

### Amending the New LIF Contract

The financial institution that administers a New LIF must agree not to amend the contract governing the New LIF if the amendment would result in a reduction in the owner's rights under the contract, unless the institution is required by law to make the amendment. In such a situation the owner must be given the option to transfer the money out of the New LIF under the terms of the contract before the amendment is made. The institution must notify the owner of the nature of this amendment in writing and send it to the owner's address. The owner must be allowed at least 90 days after notice is given to transfer all or part of the money in the New LIF.

For amendments other than that described in the paragraph above, the financial institution must give the New LIF owner at least 90 days prior notice of a proposed amendment (section 16 of Schedule 1.1).

## **Withdrawals and transfers from the New LIF – Special Applications**

### General requirements

A New LIF owner can apply for the special unlocking withdrawals and transfers under the rules described below only if the New LIF is governed by Ontario laws. If the LIF is governed by the laws of another province or by the federal government, the special unlocking provisions are not applicable. If the owner is uncertain as to which laws apply, he or she should contact the administrator of the pension plan from which the pension originated or the financial institution administering the New LIF.

Applications for unlocking based on shortened life expectancy, small amounts, amounts that exceed the ITA limits and non-residents of Canada must be made on FSCO pension Form 5, signed by the owner of the New LIF, accompanied by spousal consent (if applicable), and any required supporting documentation. The completed application must be submitted to the financial institution which administers the New LIF (not to FSCO).

Applications for financial hardship unlocking must be made to the financial institution which holds and administers the locked-in account, using the FSCO [Form](#) that applies (for more information see the next section).

If the New LIF owner has a spouse as of the date the application is signed, the spouse must consent to the application before the money can be withdrawn, except for applications for

excess contributions above the ITA limit. The spouse is not obligated to consent to the application. If the spouse agrees to consent, he or she must complete Part 4 of Form 5, or Part 4 of the Financial Hardship Unlocking Form that applies, in the presence of a witness (a person other than the New LIF owner).

The spouse's consent is not required if the New LIF owner and spouse are living separate and apart as a result of a breakdown in their spousal relationship on the date the application is signed by the owner, or if all the money in the New LIF resulted from the pension benefit of someone other than the owner, such as the owner's former spouse as a result of a breakdown in their spousal relationship.

The completed [Form 5](#) must be submitted to the financial institution which administers the New LIF within 60 days after the date on which it was signed by the owner and the spouse, if applicable.

The financial institution determines whether the application meets the requirements for unlocking. If the applicant qualifies for the unlocking, the financial institution must pay the money within 30 days after it receives the completed application.

### **Applications for withdrawal of money from a New LIF for shortened life expectancy (Section 11, Schedule 1.1)**

In addition to the general provisions for special applications described above, the following provisions apply to "shortened life expectancy" unlocking applications.

#### (1) Applications under the terms of the owner's former pension plan

If the pension plan from which the money in the New LIF originated has a provision allowing for the variation of payment due to shortened life expectancy, the New LIF owner can apply to unlock and withdraw money from the New LIF under those terms. The owner is responsible for satisfying the financial institution administering the New LIF that his/her former plan contained this provision and that, based on medical evidence and the pension plan terms, the owner's life expectancy is considerably shortened. This is a question of fact.

It is up to the financial institution to determine the format in which the application should be made. Form 5 should not be used where the owner is applying for a shortened life expectancy unlocking and withdrawal under the pension plan of the pension plan.

#### (2) Applications under section 11 of Schedule 1.1

A New LIF owner may apply to the financial institution to unlock and withdraw some or all of the money in the New LIF if he or she is suffering from an illness or physical disability likely to shorten his/her life expectancy to less than two years.

The application must be made on FSCO pension Form 5 and be accompanied by a spousal consent, if applicable. A signed statement is also required from a physician licensed to practice medicine in Canada that, in his/her opinion, the New LIF owner has an illness or physical disability likely to shorten life expectancy to less than two years. The physician may either fill in

Part 5 of Form 5, or provide an opinion as to the owner's life expectancy in another written and signed format, such as a letter. If the physician does not fill in Part 5, the letter must include a statement that the physician is licensed to practice medicine in Canada, and that, in his/her opinion, the New LIF owner has an illness or physical disability that is likely to shorten life expectancy to less than two years.

If the pension plan from which the money in the New LIF originated contained a variation of payment provision for shortened life expectancy, the New LIF owner may choose to apply under the terms of section 11 of Schedule 1.1 (by using Form 5), or to apply under the terms of the former pension plan provisions (Form 5 should not be used). For example where the plan contained a more generous shortened life expectancy criterion (e.g., a life expectancy of less than five years) instead of less than two years, the New LIF owner might prefer to apply under the terms of the plan.

An individual who successfully applies for shortened life expectancy must unlock and withdraw the money from his or her New LIF in cash and pay any applicable income tax. The option of transferring the money to an RRSP or RRIF is not available for this unlocking application.

#### **Applications for withdrawal or transfer of money from a New LIF for a small amount at age 55 or over (Section 9, Schedule 1.1)**

In addition to the general provisions for special applications described above, the following provisions apply to small amounts unlocking applications.

The owner of a New LIF may apply to unlock and withdraw all of the money in the LIF if:

- the owner is at least 55 years old when he/she applies; and
- the value of all the assets held in all the owner's Ontario locked-in accounts is less than 40% of the Year's Maximum Pensionable Earnings (YMPE) for the calendar year in which the application is made (for the year 2013, this amount is \$20,440).

The value of the assets held in each Ontario locked-in account must be based on the most recent statement given to the owner by the financial institution, and must not be dated more than one year before the date the application is signed.

A New LIF owner who satisfies the requirements for a small amount unlocking application may either withdraw all the money in cash or transfer all the money to an RRSP or RRIF in accordance with, and if permitted by, the ITA. The owner may not withdraw part of the money in cash and transfer the rest of the money to an RRSP or RRIF.

The application must be made on FSCO pension Form 5 and be accompanied by a spousal consent, if applicable.



### **Applications for withdrawal of money from a New LIF for an amount that exceeds ITA limits (Regulation section 22.2)**

In addition to the general provisions for special applications described above, the following provisions apply to amounts that exceed the ITA limits unlocking applications.

The ITA imposes a limit on the amount that a former pension plan member may transfer from a registered pension plan to a locked-in account on a tax-sheltered basis when he/she terminates employment or membership in the plan. Only amounts that do not exceed the ITA limit can be transferred to the locked-in account. If the amount of the commuted value of an individual's pension entitlement that is to be transferred from a pension plan to a locked-in account is greater than the amount allowed under the ITA for such a transfer, the pension plan administrator must pay the excess amount to the individual as a lump sum cash payment.

However, if an amount that exceeds the ITA limit has already been transferred to, or is currently held in, a New LIF, the owner may apply to the financial institution to unlock and withdraw the excess amount. It is up to the financial institution that administers the New LIF to calculate the aggregate amount to be withdrawn.

The application must be made on FSCO pension Form 5. It must include a written statement from either the administrator of the owner's former pension plan or the CRA that sets out the excess amount that was transferred into or currently held in the New LIF. The consent of a spouse is not necessary for this application.

Questions regarding the ITA limit and rules should be made to the CRA's Registered Plans Directorate at 1-800-267-3100, or visit the [CRA website](#).

### **Applications for withdrawal of money from a New LIF for non-residents of Canada (Section 10, Schedule 1.1)**

In addition to the general provisions for special applications described above, the following provisions apply to non-residents of Canada unlocking applications.

Previously, an individual who earned a benefit under an Ontario pension plan, terminated employment, transferred the commuted value of the benefit to a locked-in account and subsequently left Canada permanently could not withdraw and move this money outside of Canada. This created difficulties for individuals who lived in another country and had locked-in money in Canada.

Effective January 1, 2008, owners of all Ontario locked-in accounts, including New LIF owners, who are non-residents of Canada may apply to unlock and withdraw all the money in their New LIFs (and other Ontario locked-in accounts). The individual must have departed from Canada at least two years before making the application.

The application must be made on FSCO pension Form 5 and be accompanied by a spousal consent, if applicable, as well as a written determination from the CRA that the individual is a

non-resident for the purposes of the ITA.

Information on CRA's criteria for determination that a person is a non-resident is available on their website at [NR-73-Determination of Residency Status \(Leaving Canada\)](#) and [CRA's other information on residency status](#).

### **Applications for unlocking and withdrawal of money from a New LIF for financial hardship (Regulation Part III)**

Individuals who qualify under specific circumstances of financial hardship may apply for special access to the money in their locked-in accounts. Effective January 1, 2014, all applications for financial hardship unlocking must be made to the financial institution that holds and administers the locked-in account(s). There are four categories of financial hardship:

1. low expected income;
2. payment of first and last months' rent;
3. arrears of rent or debt secured on a principal residence (such as a mortgage); and
4. medical expenses.

All applications must be made based on one of these categories, on the Form that applies. The Forms along with User Guides (and other resources on the rules and process) are available on [FSCO's website](#). The owner of the locked-in account must be the person who applies for financial hardship unlocking. An individual can make applications under different categories but must use the Form that applies to that category.