Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

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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. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link on the left side of each page.*

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Introduction – The New Life Income Fund (Ontario)

Section 42(1)(b) of the PBA provides that a former member of a pension plan who, on or after January 1, 1988, terminates employment or ceases to be a member of the pension plan and who is entitled to a deferred pension, is entitled subject to the provisions of section 42(3) to require the administrator to pay an amount equal to the commuted value of the deferred pension into a prescribed retirement savings arrangement (referred to in this policy as a Alocked-in account@).

Effective January 1, 2008, a new kind of Ontario locked-in account, a Life Income Fund (LIF) governed by Schedule 1.1 to the Regulation, may be sold and purchased. This policy will provide a summary of the main features of the Schedule 1.1 LIF, which will be referred to in this policy as a "New LIF". The New LIF is to be distinguished from a LIF that is governed by Schedule 1 to the Regulation, which has been permitted in Ontario since October 1992, and will be referred to in this policy as an "Old LIF".

The Old LIF

Prior to October 1992, where pension money had been transferred from a pension plan to a locked-in RRSP (now known as a locked-in retirement account or LIRA), an individual could only receive retirement income from such a vehicle by using the money in it to purchase a life annuity. In addition, such an individual would have to purchase a life annuity when the locked-in RRSP matured when the individual reached age 69 (subsequently changed to age 71), regardless of whether the individual needed retirement income at that time. Many individuals objected to being required to purchase a life annuity, noting the low annuity rates then available, the absence of flexibility in retirement planning and the loss of continuing investment growth of their retirement funds. The Old LIF, a more flexible arrangement for tax and income planning purposes, was introduced in Ontario in October 1992 as a locked-in account that would provide an income payment vehicle for pension money that is subject to the PBA.

The Old LIF originally enabled individuals to defer an annuity purchase while continuing to provide lifetime retirement income. While money is in an Old LIF, a certain amount is required to be paid out to the owner each year to provide a flow of retirement income. Control over the balance of the locked-in investments rests with the owner, and all investment earnings accrue on a tax-sheltered basis. Until July 27, 2007, assets that remained in the Old LIF at the end of the year in which the owner reached age 80 had to be used to purchase a life annuity.

On July 27, 2007, the rules in the Regulation which govern the Old LIF were changed to eliminate the requirement to purchase an annuity. Owners of Old LIFs are now permitted to retain their Old LIFs past age 80 and are not required to purchase a life annuity at that time, although they may purchase a life annuity at any age if they wish to do so.

For more information about the Old LIF, please refer to FSCO pension policy L200-301 (Schedule 1 Life Income Funds [Old LIFs]).

The Locked-In Retirement Income Fund (LRIF)

In March 2000, an alternative retirement income vehicle, the Locked-In Retirement Income Fund (LRIF) was introduced. The LRIF is similar to the Old LIF but provides that the amount that can be paid from it each year as income is determined by the investment earnings of the LRIF in the previous year. More information about the LRIF can be found in FSCO pension policy L200-500 (Locked-In Retirement Income Funds [LRIFs]).

The New LIF

In the 2007 Ontario Budget, the Minister of Finance announced that existing LIFs and LRIFs would be replaced with a New LIF, which was offered for sale in Ontario effective January 1, 2008. Regulations enacted in July 2007 to implement the 2007 Ontario Budget provide that new Old LIFs and LRIFs cannot be sold or purchased after December 31, 2008. In addition, no new money can be transferred into an Old LIF or an LRIF after December 31, 2008.

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, as well as the requirement under the federal *Income Tax Act* (ITA) for a registered retirement income fund (RRIF). This would include a self-directed New LIF. All Old and New LIFs and LRIFs must qualify as RRIFs; in essence, all LIFs and LRIFs are RRIFs with additional requirements. Any financial institution that sells a LIF must ensure that their contract satisfies the RRIF rules under the ITA. For additional information regarding RRIFs, please contact the Registered Plan Directorate of the Canada Revenue Agency (CRA) at 1-800-267-3100 or visit the CRA website.

Sale, Purchase and Transfer Options

Who Can Sell a New LIF

The New LIF may be sold by any financial institution as long as it complies with the requirements of the ITA and the financial institution administers any money transferred into the New LIF and all interest and investment gains in accordance with the requirements of the PBA and Regulation. Vendors of New LIFs include insurance companies, banks, trust companies, credit unions, investment companies and individuals authorized to sell RRIFs. 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, as some other Canadian jurisdictions do. FSCO does not register New LIFs and will not review specimen New LIF contracts for compliance with the applicable requirements.

Who Can Purchase a New LIF

Subject to the conditions for purchase noted below, a New LIF may be purchased by:

- A former member of a pension plan who is entitled to commute his or her pension benefit under section 42(1) of the PBA as a result of termination of employment or, in certain situations, plan membership, or as a result of a plan wind up where such "portability" rights are granted;

- A spouse or former spouse of a former member of a pension plan, where the spouse or former spouse is entitled under a court order or separation agreement as a result of a breakdown in their relationship, to commute a part of a pension benefit to which the former member is entitled under section 42(1) of the PBA as a result of:

  - the former member's termination of employment;
  - in certain situations, the former member's termination of plan membership, or;
  - as a result of a plan wind up where such portability rights are granted to the former member;

or

- The owner of an existing New LIF, Old LIF, LRIF or LIRA, who used the funds in the existing New LIF, Old LIF, LRIF or LIRA to make the purchase.

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

In addition, individuals who are receiving payments from a guaranteed annuity that was purchased after October 1992 may commute the unexpired period of the annuity for the purpose of purchasing a New LIF. The insurer who issued the annuity cannot withhold agreement and must identify the commuted value of the annuity and the amount that will be available for the New LIF purchase. The difference between the two amounts, if any, is the charge applied to effect the transfer. If a guaranteed annuity was purchased prior to October 1992, the owner may commute the unexpired period of the annuity 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 who can purchase a New LIF. 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 (i.e., the age at which the owner would have been entitled to commence early retirement benefits). Section 5(2) 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 or she reaches early retirement age under the terms of any former pension plan.

For example, if the early retirement age for the person under the originating pension plan was 55, and a LIRA owner who used to be a member of that plan turns 55 in November 2009, that person could have purchased a New LIF as early as January 1, 2008, when he or she was 53. In addition, income payments from the New LIF must have begun before the end of 2009 if the New LIF was purchased in 2008.

There is no latest age at which an individual can purchase a New LIF.

Transfer Options from New LIFs

Money in a New LIF can only be transferred to another New LIF or be used to purchase a life annuity.

Spousal Consent

If an individual who wishes to purchase a New LIF has a spouse on the day the New LIF is purchased, the written consent of the spouse is usually required to make the purchase. However, if the individual is living separate and apart from his or her spouse on the date of the purchase due to a breakdown in their relationship, the consent of the spouse is not required. In addition, if all the money that is to be used to purchase the New LIF is derived from the pension benefits of the purchaser's former spouse due to a previous relationship breakdown, the consent of the purchaser=s current spouse is not required.

FSCO does not issue a form for use as a spousal consent. None of 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) are appropriate for spousal consent, and none of these forms should be used for spousal consent to purchase a New LIF, or be modified to so provide. By consenting to the purchase of a New LIF, a spouse is not waiving his or her entitlement to survivor benefits.

The spouse should be aware that he or she is not required by law to provide a consent; to do so is solely at his or her option. However, in those situations in which a consent is required, the New LIF cannot be purchased unless the consent is given. Spouses might want to withhold consent to the purchase of a New LIF for any number of reasons. For example, annual payments from a New LIF could potentially reduce the amount of any future survivor benefit or the amount to be divided upon the breakdown of the marriage or relationship. Because the New LIF may be invested in the markets at the direction of the New LIF owner and is not guaranteed, investment losses may occur and reduce the balance in the New LIF. Spouses might wish to consider seeking independent legal advice if they are concerned about the implications of providing consent.

Ontario Members of Federally-Regulated Plans

Ontario members of pension plans regulated under the federal *Pension Benefits Standards Act, 1985* (PBSA) who were employed in Aincluded employment@ as defined in the PBSA are generally 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 vehicles that are provided for under the PBSA.

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.

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 the New LIF 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 annual income payment for the first year, if any, must be prorated over the shortened year.

Where money that originated from more than one pension plan has been transferred to a New LIF, the earliest retirement date under any of the pension plans would determine the earliest date on which income payments from the New LIF can begin. The determination of the earliest date on which the owner can begin receiving income payments is a question of fact which must be determined by the owner and his or her advisors, based on the provisions of the former pension plan(s) and the owner’s personal information.

At the beginning of each fiscal year, the financial institution that holds the New LIF must inform the New LIF 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 New LIF owner should then notify the financial institution of how much he or she wishes to be paid as income and how payments are to be made. If the owner does not notify the financial institution of the amount to be paid as income, the minimum amount required under the ITA must be paid out to the New LIF owner.

Minimum Income Payment Formula

The minimum income amount that must be paid from the New LIF each year is calculated in accordance with 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. If the New LIF owner has a spouse, the spouse=s age may be used to calculate the minimum in accordance with the ITA rules.

If the minimum income amount that must be paid is greater than the maximum income amount that may be paid, 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, which is the greatest of the following:

1. The amount determined under a prescribed formula, which is the same formula used to calculate the maximum annual income that may be paid from an Old LIF (the "Old LIF formula").
2. The amount of investment earnings attributable to the New LIF in the previous fiscal year.
3. For the fiscal year following a fiscal year in which money is transferred into the New LIF from another New LIF, Old LIF or LRIF, the amount of investment earnings attributable to the transferring fund in its fiscal year up to the date of transfer, plus the investment earnings attributable to the receiving New LIF for the remainder of the fiscal year after the date of transfer.

Because New LIFs have only been permitted since January 1, 2008 the maximum that could be paid from a New LIF for 2008 is only the amount determined under the Old LIF formula (see below).

1. Amount determined under the Old LIF formula

The amount is calculated by dividing the balance of the New LIF at the beginning of the fiscal year by 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 owner cannot use his or her spouse=s age in this calculation.

The Regulation also prescribes interest rate assumptions that apply for the purposes of this formula. The interest rate to be used in the formula for the first 15 years is the **greater of** 6% **or** the prescribed rate published for the previous November in the *Bank of Canada Review* under identification number CANSIM V122487. For the sixteenth and each subsequent fiscal year, the interest rate is 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 rates used in the formula to determine this possible maximum income payment amount.

2. Amount of investment earnings attributable to the New LIF in the previous fiscal year.

This amount can be calculated by taking the balance of the New LIF at the end of the fiscal year in question and subtracting the balance of the New LIF at the start of the fiscal year. The value of any money moved out of the New LIF during the fiscal year (e.g., income payments made, transfers of money to different locked-in accounts, withdrawals and transfers made as a result of special applications, etc.) would have to be added, and the value of any new money moved into the New LIF during the fiscal year (e.g., transfer amounts deposited from other locked-in accounts, etc.) would have to be subtracted.

For example, assume that the balance of 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 also transferred $3,000 into the New LIF from a LIRA, from which he withdrew 25% of the transferred amount, or $750. 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 + $750 withdrawn, or $5,750), minus the amount transferred in from the LIRA ($3,000), which equals $12,750.

To put this example in a formula:

	Balance at end of the year	($60,000)
(Minus)	Balance at start of the year	- ($50,000)
(Plus)	Total amount of money paid, withdrawn or transferred out during the year	+ ($5,750)
(Minus)	Total amount of money added during the year	- ($3,000)
Total Investment Earnings for the year		=($12,750)

3. 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, the amount is determined by taking the investment earnings attributable to the transferring fund in its fiscal year up to the date of transfer, plus the investment earnings attributable to the receiving New LIF for the rest of the fiscal year after the date of transfer.

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 in that year is **zero** (subject to any minimum income amount required to be paid under the ITA rules). In any year in which money is transferred to a New LIF from a registered pension plan or a LIRA, the maximum income amount that can be paid from the receiving New LIF in that year is calculated based on the balance of the 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 someone transfers money from a LIRA to a brand new New LIF on May 15, the maximum amount that can be paid for that year would be the amount in the 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).

When money is transferred from a New LIF to another New LIF and there is no money left in the transferring New LIF after the transfer, the owner will not be able to be paid any further income amounts from his or her receiving New LIF for that fiscal year. To ensure that the owner receives the maximum income payment possible for the year of transfer, he or she should arrange to receive all income payments from the transferring New LIF **before the transfer**. In any case, the transfer should be structured so that the owner will be paid at least the minimum income payment from the transferring New LIF required under the ITA.

Maximum payments for 2008

Because the New LIF was first permitted in 2008, there are special considerations regarding the maximum income amount that may be paid from a New LIF for 2008. Since a New LIF cannot be purchased prior to January 1, 2008, the first fiscal year of a New LIF must begin on a date in 2008. Therefore, for a New LIF established in 2008 with money transferred from a LIRA, a registered pension plan or a life annuity, the maximum income amount that may be paid for 2008 can only be determined using the Old LIF formula; the other two options described above cannot exist in 2008, as there is no previous year, and 2008 is not a subsequent year of transfer. As described above, for a New LIF established

in 2008 with money transferred from another New LIF, Old LIF or LRIF, the maximum income amount that may be paid for 2008 is zero.

Each year in December, FSCO publishes a policy which includes a table that sets out the maximum income percentage that can be paid from a New LIF in the upcoming fiscal year. Financial institutions can also determine this percentage themselves as soon as the November CANSIM V122487 rate is published. For 2008, please refer to pension policy L200-405 (2008 Schedule 1.1 Life Income Fund (LIF) Maximum Annual Income Payment Amount" for the New LIF table).

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

If the owner of a New LIF chooses to be paid the minimum income amount in cash and transfers the difference between the minimum and maximum income payment amount to an RRIF or RRSP, his or her total income payment for the year from the New LIF, for the purposes of the PBA and Regulation, will be the maximum income payment amount.

The 25% Withdrawal or Transfer

Every time money is transferred into a New LIF from an Old LIF, an LRIF, a LIRA or a registered pension plan, the New LIF owner has 60 days in which to apply for a withdrawal in cash or a transfer to an RRSP or RRIF of up to 25% of the money that was transferred into the New LIF. However, **the 25% withdrawal option does not apply to money transferred into a New LIF from another New LIF or an annuity.**

The application must be made to the financial institution that administers the New LIF on FSCO pension Form 5.1.

The 60 day time period for making an application begins on the date the money is transferred into the New LIF. Where a single transfer transaction actually takes place in stages over a period of time, the 60 day period begins when the last of the money related to that transfer transaction has been received. For example, when money is in a LIRA which consists of securities, the final transfer 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 value of the money that has been transferred into the New LIF as part of that transaction can be determined, and at that point, the 60 day period begins. However, when an owner makes a number of separate and distinct transfers from their LIRA to their New LIF, there are 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.

As a result, for a single transfer transaction occurring in stages, the owner of the New LIF cannot apply for the 25% withdrawal or transfer in relation to any of the money transferred into the New LIF as part of that single transaction until the final date of the transfer. This is because FSCO pension Form 5.1 requires that the total value of the money transferred into the New LIF be inserted in the form, and the owner cannot sign the certification on the form until that final number has been inserted. It is incumbent on the financial institution that administers the New LIF to inform the owner of the New LIF ahead of time that when there is a single transfer transaction in partial stages, the owner will only be able to apply for the 25% withdrawal or transfer once the last deposit of money related to that single transfer transaction has been received by the financial institution.

The owner of the New LIF may only make one application for a 25% withdrawal or transfer in relation to money transferred into a New LIF. The financial institution cannot accept such an application if the owner of the New LIF fails to apply for the withdrawal or transfer within the 60 days. The money that is withdrawn or transferred must be either all withdrawn in cash or all transferred directly to an RRSP or RRIF. The money cannot be partly withdrawn in cash and partly transferred directly to an RRSP or RRIF.

The 25% withdrawal or transfer is distinct from, and in addition to, the maximum income amount that can be paid from the New LIF each year. The owner can withdraw or transfer 25% of the money transferred into a New LIF and can then be paid the maximum income amount from the New LIF. The maximum annual income payment is based on the balance in 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 $100,000 deposited into it on the date of purchase. Fifty days later, the owner withdraws 25% of the $100,000 deposited, which leaves $75,000 in the New LIF. 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.

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 withdrawal or transfer of money from it under the 25% withdrawal or transfer option described above or the following special applications (see “Special Applications” section, below):

- Shortened life expectancy (Regulation Schedule 1.1, s. 11);
- Small amounts for individuals who are at least 55 years of age (Regulation Schedule 1.1, s. 9);
- Excess contributions above the ITA limit (Regulation s. 22.2);
- Non-residents of Canada (Regulation Schedule 1.1, s. 10); and
- Financial hardship (Regulation Part III).

Survivor Benefits

Upon the death of the New LIF owner, the owner's spouse at the time of death is entitled to receive a spousal survivor benefit, which is an amount equal to the value of the assets in the New LIF at the time of death. The value of the assets in the New LIF includes all accumulated investment earnings, including any unrealized capital gains and losses in the account, from the date of death until the date of payment.

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 owner's spouse is not entitled to the spousal survivor benefit (although the spouse could still be entitled to receive a survivor benefit if the spouse has been named a beneficiary by the owner).

The New LIF owner's spouse may waive his or her entitlement to receive the spousal survivor 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), which is available on FSCO's website. A spouse who has delivered such a waiver may cancel it by delivering a written and signed notice of cancellation to the financial institution before the death of the New LIF owner. There is no prescribed form for the cancellation of the waiver.

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

The survivor benefit is not locked-in and may be received in cash. Alternatively, the survivor benefit may be transferred to the spouse's or beneficiary's RRSP or RRIF in accordance with, and if so permitted by, the provisions of the ITA. However, the New LIF itself comes to an end with the death of the owner. The surviving spouse cannot simply "step into the owner's shoes" and continue the New LIF in the spouse's name; the spouse must transfer the money to his or her own account.

The New LIF and LIFs established in other jurisdictions

Money in a New LIF may be transferred to a financial institution in another jurisdiction in Canada as long as the transferee institution agrees 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.

Money in a New LIF cannot be combined with money in another LIF or locked-in account that is not subject to the PBA and Regulation.

Information for Financial Institutions

Information that Must be Provided by the Financial Institution

A contract establishing a New LIF must include the following:

- the name and address of the financial institution administering the New LIF;
- the owner's powers, if any, respecting 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 a New LIF except if required by a court order or domestic contract under the *Family Law Act*; and
- the method for determining the value of the assets in the New LIF.

In addition, at the beginning of the fiscal year, the financial institution administering the New LIF must provide the following information to the owner with respect to the previous fiscal year:

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

At the beginning of the fiscal year, the financial institution must also provide to the owner:

- 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.

All of the information noted above must also be provided to the owner when money is transferred from a New LIF to another locked-in account or for the purchase of an annuity, determined as of the date of the transfer. In addition, upon the death of the owner of the New LIF, all of this information must be provided to the spouse or beneficiary, determined as of the date of the owner=s death.

Earliest Retirement Date

When transfers are made from a registered pension plan to a New LIF, the financial institution administering the New LIF should ensure that the pension plan administrator identifies the earliest date that the owner could have retired under the pension plan, regardless of whether the pension would have been payable as a reduced pension. Where that information is not provided, before permitting income payments from a New LIF to commence prior to age 55, the financial institution must satisfy itself that the plan would have allowed the owner to retire before age 55.

Amending the New LIF

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 financial institution is required by law to make the amendment and the owner is given the option to transfer the money out of the New LIF under the terms of the contract before the amendment is made. The financial institution must notify the owner of the nature of this amendment and allow the owner at least 90 days after notice is given to transfer all or part of the money in the New LIF.

For amendments other than an amendment described in the preceding paragraph, the financial institution must give the New LIF owner at least 90 days prior notice of a proposed amendment.

Special Applications for Withdrawal of Money from a New LIF: Shortened Life Expectancy, Small Amounts at Age 55, Amounts that Exceed ITA Limits, Non-residents of Canada and Financial Hardship

General Provisions that Apply to All Special Applications

All special applications for withdrawals or transfers of money from a New LIF due to shortened life expectancy, small amounts at age 55, amounts that exceed ITA limits and non-residents of Canada must be made on FSCO pension Form 5 and signed by the owner of the New LIF. If the owner has a spouse on the date the application is signed, the spouse must consent to the application, subject to certain exceptions (see next paragraph) before the money can be withdrawn or transferred. The owner's spouse is not obligated to consent to the application, but if the spouse does agree to consent, he or she must complete Part 4 of Form 5 in the presence of a witness (someone other than the New LIF owner).

The consent of a spouse is not required if:

- the New LIF owner and his or her spouse are living separate and apart due to a breakdown in their relationship at the time the application is signed;
- the money in the New LIF resulted from the pension benefit of the owner=s former spouse due to a breakdown in their relationship; or
- the application is to withdraw an amount that exceeds ITA limits.

The completed application (Form 5) must be submitted **to the financial institution that administers the New LIF** within 60 days after the date on which it was signed by the owner and, if applicable, the spouse. **Form 5 should not be submitted to FSCO.** Whether the application meets the requirements for withdrawal or transfer is determined by the financial institution. If the applicant qualifies for the withdrawal or transfer, the financial institution must pay the money within 30 days after it receives the completed application and any accompanying document.

All special applications for withdrawals of money from a New LIF due to financial hardship must be made to the Superintendent using a form and process that are described below.

Applications for Withdrawal of Money from a New LIF for Shortened Life Expectancy

In addition to the general provisions for special applications described above, the following provisions apply to Ashortened life expectancy@ 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 contains a provision allowing for the variation of payment due to shortened life expectancy, the New LIF owner can seek to withdraw money from the New LIF under those terms. The New LIF owner is responsible for satisfying the financial institution administering the New LIF that his or her former plan contained such a provision and that, based on medical evidence and the terms of the pension plan, the owner=s life expectancy has been considerably shortened. This is a question of fact.

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

(2) Applications under Section 11 of Schedule 1.1 to the Regulation

A New LIF owner may apply to the financial institution to withdraw some or all of the money in the account if he or she is suffering from an illness or physical disability that is likely to shorten his or 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, as well as a statement signed by a physician who is licensed to practice medicine in Canada that, in his or her opinion, the New LIF owner has an illness or physical disability that is likely to shorten his or her life expectancy to less than two years. The physician may either fill in Part 5 of Form 5, or provide his or her 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 a jurisdiction in Canada, and that, in his or her opinion, the New LIF owner has an illness or physical disability that is likely to shorten his or her 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 has the choice of applying under the terms of section 11, Schedule 1.1 (and would use Form 5) **or** applying under the terms of the former pension plan provisions (in which case, Form 5 should not be used). An example of a situation where the individual may wish to apply under the former pension plan provisions would be where the plan contained a more generous shortened life expectancy criterion (e.g., a life expectancy of less than five years).

A New LIF owner can only apply for a shortened life expectancy withdrawal under the rules described above if the New LIF is governed by the PBA and Regulation. If an individual owns a LIF that is governed by the pension laws of another province or the federal government, Ontario=s rules do not apply. If the owner is not sure which laws govern his or her LIF, the owner should contact the administrator of the pension plan from which the money in the LIF originated or the financial institution administering the LIF.

Applications for Withdrawal or Transfer of Money from a New LIF for a Small Amount at Age 55 or Over

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

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

- X the owner is at least 55 years old when he or she applies; and
- X the value of all the assets held in all of 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 2008, this amount is 40% of $44,900 [the YMPE for 2008] = $17,960.)

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 the statement must not be dated more than one year before the date the application is signed.

Owners of New LIFs who satisfy the requirements for small amounts applications may either withdraw all of the money in cash or transfer all of the money to an RRSP or RRIF in accordance with, and if so permitted by, the terms of the ITA.

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

New LIF owners can only apply for the small amount withdrawal or transfer under the rules described above if the New LIF is governed by the PBA and Regulation. If an individual owns a LIF that is governed by the pension laws of another province or the federal government, Ontario's rules do not apply. If the owner is not sure which laws govern his or her LIF, the owner should contact the administrator of the pension plan from which the money in the LIF originated or the financial institution administering the LIF.

Applications for Withdrawal of Money from a New LIF for Amounts that Exceed ITA Limits

In addition to the general provisions for special applications described above, the following provisions apply to Aamounts that exceed the ITA limits@ 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 the former member terminates employment or membership in the plan. Amounts that do not exceed the ITA limit can only be transferred to a 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 administrator of the pension plan must pay the excess amount to the individual in a lump sum.

However, if an amount that exceeds the ITA limit has already been transferred to, or currently held in, a New LIF, the owner may apply to the financial institution to 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 and 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.

New LIF owners can only apply for the withdrawal of amounts that exceed the ITA limit under the rules described above if the New LIF is governed by the PBA and Regulation. If an individual owns a LIF that is governed by the pension laws of another province or the federal government, Ontario's rules do not apply. If the owner is not sure which laws govern his or her LIF, the owner should contact the administrator of the pension plan from which the money in the LIF originated or the financial institution administering the LIF.

Questions regarding the ITA limit and rules should be made to the CRA's Registered Plans Directorate at 1-800-267-3100.

Application for Withdrawal of Money from a New LIF for Non-Residents of Canada

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

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

Effective January 1, 2008, owners of all Ontario locked-in accounts, including the New LIF, who are non-residents of Canada may apply to withdraw all the money in their New LIF (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 purpose of the ITA.

Interested owners who might qualify can find further information on the criteria the CRA uses for a determination that a person is a non-resident from NR-73-Determination of Residency Status (Leaving Canada) and CRA's other information on residency status on the CRA website.

New LIF owners can only apply for the non-residents of Canada withdrawal under the rules described above if the New LIF is governed by the PBA and Regulation. If an individual owns a LIF that is governed by the pension laws of another province or the federal government, Ontario's rules do not apply. If the owner is not sure which laws govern his or her LIF, the owner should contact the administrator of the pension plan from which the money in the LIF originated or the financial institution administering the LIF.

Applications for Withdrawal of Money from a New LIF for Financial Hardship

Effective May 1, 2000, individuals who qualify under certain prescribed circumstances of financial hardship may apply to the Superintendent of Financial Services for special access to the money in their locked-in account, which now includes a New LIF. Inquiries about applications for financial hardship access is available from the FSCO call centre at 416- 250-7250 or toll free at 1-800-668-0128, or from the FSCO website under "Pensions" and "Financial Hardship Unlocking". In addition, individuals may write to the Financial Services Commission of Ontario, 5160 Yonge Street, Box 85, Toronto, Ontario, M2N 6L9.

Frequently Asked Questions About the New LIF

Please refer to FSCO's website for updates on questions about the New LIF and other locked-in accounts.