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: Bill 171, the Spousal Relationships Statute Law Amendment Act, 2005 (S.O. 2005, c. 5) and Ontario Regulation 324/05 amended the definition of "spouse" in section 1 of the PBA and removed reference to "same-sex partner" from the PBA and the Regulation as of June 13, 2005. This policy has been updated solely for purposes of reflecting this change. For further details see policy S500-101. No other changes to this policy have been made since the effective date.*

This policy includes the following headings:

**Introduction - The Ontario Life Income Fund**
**Sale and Purchase of a LIF**
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## Introduction - The Ontario Life Income Fund

Clause 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 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 "locked-in account"). This policy will provide an overview of the main features of one such locked-in account, the Life Income Fund ("LIF"). Most of the legislative requirements respecting LIFs can be found in Schedule 1 of the Regulation.

Prior to October 1992, where pension money had been transferred to a locked-in RRSP (now known as a locked-in retirement account or "LIRA"), individuals had to purchase a life annuity by the time the locked-in RRSP came to an end when the individual reached age 71 (now age 69) regardless of whether they needed retirement income at that time. Many individuals objected to being required to purchase an 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 Ontario LIF, a more flexible arrangement for tax and income planning purposes, was introduced 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 LIF is intended to provide greater flexibility by enabling individuals to defer the annuity purchase while continuing to provide lifetime retirement income. While money is in the LIF, a certain amount must be paid out to the owner each year to provide a flow of retirement income within a specified range. Control over the balance of the locked-in investments rests with the owner, and all investment earnings continue to accrue on a tax-sheltered basis. Any assets in the LIF at the end of the year in which the owner reaches age 80 must be used to purchase a life annuity.

The Regulation provides that a LIF must qualify as a registered retirement income fund ("RRIF") under the *Income Tax Act* (Canada) ("ITA"). In essence, the LIF is a RRIF with additional requirements. The RRIF rules under the ITA set the minimum amount that must be paid out annually. Consistent with the principle that locked-in money must provide a lifetime retirement income, the Regulation sets the annual maximum payment for a LIF and requires the eventual purchase of a life annuity.

## Sale and Purchase of a LIF

### Who Can Sell a LIF?

The LIF may be sold by any financial institution as long as the LIF complies with the requirements of the ITA and the institution administers the amount transferred and all interest and investment gains as required by the PBA and Regulation. Retailers of LIFs can include insurance companies, banks, trust companies, credit unions, investment companies and individuals authorized to sell a RRIF. Ontario does not require financial institutions to submit their LIF contracts for approval, nor does the Financial Services Commission of Ontario ("FSCO") maintain a list of approved LIF contracts, as some Canadian jurisdictions do. FSCO does not register LIFs and will not review specimen LIF contracts for compliance with the applicable requirements.

### Who Can Purchase a LIF?

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

- any former member of a pension plan who is entitled to a portability option as a result of termination of employment or plan membership, or as a result of a plan wind up where portability rights are granted;
- a spouse or former spouse of a former member who is entitled to a portability option as a result of the former member's termination of employment or plan membership, or as a result of a plan wind up where portability rights are granted to the former member;

- a spouse or former spouse of a former member who is entitled to a share of the former member's pension benefits under a court order or separation agreement due to a breakdown in their relationship (although the timing of the spouse's access to income payments is dependent on the former member's entitlement date); or
- an individual who owns a LIRA, a locked-in retirement income fund ("LRIF") or another LIF.

It should be noted that Ontario members of pension plans regulated under the federal *Pension Benefits Standards Act 1985* ("PBSA") who were in "included employment" as defined in the PBSA are generally not eligible to purchase the Ontario LIF.

Additional Conditions for a LIF

The earliest age that an individual can purchase a LIF is generally 55, but it could be earlier depending upon the age at which members may retire under the terms of the pension plan from which the money originated. Where money has been transferred from the pension plans of several employers, the earliest retirement date under any of the pension plans would apply. The determination of the earliest date on which the individual can purchase a LIF and begin receiving payments is a question of fact which must be determined by the individual and his or her advisors, based on the provisions of the former pension plan(s) and the individual's personal information. The latest age at which an individual can purchase a LIF is generally 79, although an individual could purchase a LIF during the year in which he or she reaches 80 and then purchase an annuity using the LIF assets at the end of that year.

When transfers are being made from a registered pension plan to a LIF, the financial institution should ensure that the plan administrator identifies the earliest date the plan member may retire, regardless of whether the pension is payable as a reduced pension. Where that information is not provided, the financial institution must satisfy itself that the plan allows for retirement before age 55 and that all conditions for receipt of the pension under that plan were satisfied by the individual before permitting LIF payments to commence prior to age 55.

If the individual who wishes to purchase a LIF has a spouse on the day the LIF is purchased, the written consent of the spouse is generally required before the LIF can be purchased. If the individual is living separate and apart from his or her spouse on the date of the purchase, the consent of the spouse is not required. If all the money that is to be used to purchase the LIF is derived from the pension benefits of the purchaser's former spouse as a result of a marriage or relationship breakdown, the consent of the purchaser's current spouse is also not required.

There is no form approved by the Superintendent of Financial Services ("Superintendent") for use as a spousal consent. FSCO pension Form 3 (Waiver of Joint and Survivor Pension) is not appropriate and should not be used for consent to purchase a LIF or be modified to so provide. By consenting to the purchase of a LIF, a spouse is not waiving his or her entitlement to survivor benefits.

The spouse should be aware that there is no requirement that he or she provide such a consent; to do so is solely at his or her option. However, in those situations in which a consent is required, the LIF cannot be purchased unless the consent is given. Spouses might want to withhold consent to the purchase of a LIF for any number of reasons. For example, annual payments from a 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. Also, the more that is taken out of a LIF each year, the less that will be left in the LIF when an annuity is purchased, which could be detrimental to the spouse. Because the LIF may be invested in the markets at the direction of the LIF owner and is not guaranteed, investment losses may occur and reduce the balance in the LIF.

**Sources of Funds for LIFs**

Primary Sources

A LIF can be purchased with money transferred from a registered pension plan or from a locked-in account (LIRA, LRIF or another LIF).

Commuted Annuities

(1) Annuities purchased prior to October 1992

If an individual is currently receiving payments from a life annuity that was purchased before Ontario LIFs were introduced (October 1992), the annuity may be commuted to purchase a LIF (or an LRIF) only if the issuer of the annuity contract agrees to do so. This may be done for a single or joint life annuity with or without a guarantee period. In the case of a joint life annuity, a spouse who is in receipt of a lifetime survivor benefit may also commute the annuity to purchase a LIF if the former member satisfied the age requirement for a LIF purchase.

Issuers of annuities who agree to transfer funds to a LIF are obligated to identify the commuted value of the annuity, and the amount that will be available for the LIF purchase. The difference between the two amounts, if any, is the charge applied to effect the transfer.

(2) Annuities purchased after October 1992

Since Ontario LIFs were introduced in October 1992, clause 22(1)(c) of the Regulation has provided that the unexpired period of a guaranteed annuity purchased after that time may be commuted for the purpose of purchasing a LIF (or now an LRIF). The insurer cannot withhold agreement and must identify the commuted value of the annuity and the amount that will be available for the LIF (or LRIF) purchase. The difference between the two amounts, if any, is the charge applied to effect the transfer.

**Requirements for Annual Payments**

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

The LIF owner must notify the financial institution at the beginning of each fiscal year of how much he or she wishes to be paid and when payments are to be made (e.g., at the beginning or end of the fiscal year or on another basis that is allowed under the ITA). If the owner does not notify the financial institution of the amount to be paid, the minimum amount required under the ITA must be paid out to the LIF owner.

Minimum Payment Formula

The minimum amount that must be paid from the LIF each year is based on the minimum that must be paid from a RRIF, as prescribed under section 7308 of the federal Income Tax Regulations. Generally, the minimum is calculated by dividing the balance in the LIF at the beginning of the fiscal year by (90 minus the owner's age as of the beginning of the calendar year). If the LIF owner has a spouse, that person's age may be used to calculate the minimum in accordance with the ITA rules.

Maximum Payment Formula

To ensure that there is sufficient money in the LIF to purchase a life annuity by age 80, regular payments from the LIF are subject to a maximum annual limit determined using an actuarial formula. The maximum is calculated by dividing the balance in the 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. For fiscal years which begin on or after January 1, 2001, 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 B-14013. For the sixteenth and each subsequent fiscal year, the interest rate is 6%.

These prescribed interest rates (CANSIM B-14013 and 6%) are **not** the maximum percentages that may be paid out of the LIF each year, but are simply the rates used in the formula to determine the maximum payment.

If the maximum amount for a fiscal year is less than the minimum amount prescribed under the ITA, the minimum amount must be paid out of the fund during the fiscal year.

Each year in December, FSCO publishes a policy which includes a table that sets out the maximum percentage that can be paid from a LIF in the upcoming fiscal year. Financial institutions can also determine this percentage themselves as soon as the November CANSIM B-14013 rate is published.

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

Initial Year Maximum Payment

Where the money in a LIF was transferred from a registered pension plan, annuity or a LIRA (not from another LIF or LRIF), in the initial fiscal year of the LIF the maximum is calculated based on the amount transferred into the LIF and is prorated over the number of months remaining in the fiscal year of the LIF. The CANSIM rate for the previous November must be used in calculating the maximum amount payable in the initial fiscal year.

Note: Prior to March 3, 2000, Schedule 1 required that in the initial year of the LIF, where the transfer of money from a registered pension plan, annuity or LIRA occurred after January 1, the prescribed CANSIM rate for the month preceding the month in which the money was transferred would be used to determine the maximum payment amount for the initial year. For example, if the initial transfer was received during the month of May, the April CANSIM rate would be used to calculate the annual maximum payment amount for the initial eight-month fiscal year. However, Schedule 1 was revised in March 2000, and this requirement is no longer applicable.

Where the assets in a LIF have been transferred from another LIF or an LRIF, the maximum amount that can be paid from the new LIF in the new LIF's first fiscal year is zero.

**General Provisions**

No Commutation or Surrender

Money in a LIF cannot be commuted, withdrawn or surrendered in whole or in part except as permitted under the PBA or Regulation. This prohibition does not apply to prevent annual payments from a LIF or the following exceptions by which money in a LIF can be withdrawn by special application:

- small amounts (Schedule 1, s. 9);
- shortened life expectancy (Schedule 1, s. 10);
- excess contributions over the ITA limit (Regulation s. 22.2); and
- financial hardship (Regulation Part III).

Purchase of Annuity Required

If there are any assets remaining in the LIF on December 31 of the year in which the owner reaches age 80, those assets must be used to purchase an immediate life annuity for the owner. If the owner does not purchase such annuity by March 31 of the year after he or she reaches age 80, the financial institution is required to purchase it for the owner. If the owner has a spouse and is not living separate and apart from the spouse when the annuity is purchased, the annuity must provide a joint and survivor annuity where at least 60% of the annuity payment continues to the surviving spouse. The owner and spouse may waive the joint and survivor aspect of the annuity. As set out in section 22 of the Regulation, the annuity must be determined on a basis that does not take into account the sex of the annuitant. Should the annuity include pre-1988 benefits that were determined using sex-distinct rates, this portion of the annuity may be determined based on sex-distinct annuity rates.

Transfer Options

Before December 31 of the year in which the LIF owner reaches age 80, all or part of the assets in the LIF may be transferred to another LIF, an LRIF, a LIRA (if the owner has not turned 69) or to purchase an immediate life annuity, if allowed under the ITA.

Survivor Entitlements

If the LIF owner dies before a life annuity has been purchased, the owner's spouse, or if there is none, a named beneficiary, or if there is none, the owner's estate, is entitled to receive a benefit equal to the balance in the LIF as of the date of death. The death benefit is not locked-in.

A spouse living separate and apart from the LIF owner on the date of the owner's death is not entitled to a death benefit under the legislation, although the owner may designate that person as a beneficiary.

In the legislative changes introduced in March 2000, the spousal waiver right was deleted for the LIF. The spouse of the LIF owner is no longer able to waive his or her right to survivor benefits.

Information that Must be Provided by the Financial Institution

Schedule 1 provides that a LIF contract must contain specific information, including: the name and address of the financial institution; the owner's powers, if any, respecting investment of the LIF assets; a statement that the owner agrees not to assign, charge, anticipate or give as security money payable under the LIF (except if required by a court order or domestic contract under the *Family Law Act*); and a description of the method for determining the value of the assets in the LIF.

In addition, at the beginning of each fiscal year, the following information must be provided to the owner: the sums deposited into the LIF; accumulated investment earnings (including any unrealized capital gains and losses); payments made out of the LIF; fees charged against it during the previous fiscal year; the value of the assets in the fund as of the beginning of the fiscal year; and the minimum and maximum amounts that may be paid out for the year. This information must also be provided to the owner when money is transferred from the LIF to a LIRA, LRIF, or another LIF, or to purchase an annuity, determined as of the date of the transfer. In addition, upon the death of the owner, this information must be provided to the beneficiary determined as of the date of the owner's death.

**The Ontario LIF and LIFs Established in Other Jurisdictions**

Money in an Ontario LIF may be transferred to a financial institution in another jurisdiction within Canada, as long as the transferee institution administers the LIF in accordance with Ontario's pension legislation. For example, a former plan member terminates employment in Ontario and purchases an Ontario LIF from a bank. Subsequently, he moves to British Columbia and wishes to use some or all of the money in the Ontario LIF to purchase a LIF in B.C. The bank in Ontario is not permitted to transfer the money unless the financial institution in B.C. administers the new LIF in accordance with Ontario law as an Ontario LIF. This is consistent with the treatment of LIRAs and LRIFs.

Since a LIF must qualify as a RRIF under the ITA, LIF funds cannot be transferred outside of Canada. In addition, Ontario would not be able to enforce legislated requirements restricting the use of locked-in money in LIFs if the funds were transferred outside of Canada.

**Special Applications for Withdrawal of Money from a LIF: Shortened Life Expectancy, Small Amounts and Amounts that Exceed ITA Limits**

**General Provisions that Apply to all Special Applications**

All special applications for withdrawals of money from a LIF due to shortened life expectancy, small amounts and amounts that exceed ITA limits must be made on a form approved by the Superintendent (Form 5) and signed by the LIF owner. 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. The spouse is not obligated to consent to the application, but if the spouse agrees to consent, he or she must complete Part 4 of Form 5 in the presence of a witness (someone other than the LIF owner).

The consent of a spouse is not required if the LIF owner and spouse are living separate and apart at the time the application is signed. Consent of a spouse is not required if the money in the LIF resulted from the pension benefit of the owner's former spouse as a result of a breakdown in their relationship.

The completed application must be submitted to the financial institution which administers the LIF within 60 days after the date on which it was signed by the owner and, if applicable, the spouse. Whether the application meets the requirements for withdrawal is determined by the financial institution. If the applicant qualifies for the withdrawal, the financial institution must pay the money within 30 days after it receives the completed application.

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

In addition to the aforementioned general provisions for special applications, the following provisions apply to "Shortened Life Expectancy" applications.

Applications under the Terms of the Former Pension Plan

Before March 3, 2000, LIF owners whose life expectancy was shortened considerably by reason of mental or physical disability were not allowed to avail themselves of the shortened life expectancy provisions of the PBA. The legislative changes which came into effect on March 3, 2000 provided relief to LIF owners whose life expectancy is shortened. If the pension plan from which the money in the LIF originated contains a provision allowing for the variation of payment due to shortened life expectancy, the LIF owner can seek to withdraw money from the LIF under those terms. The LIF owner is responsible for satisfying the financial institution administering the 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 under the terms of the plan.

Applications under Section 10 of Schedule 1

Effective March 3, 2000, Schedule 1 was amended to provide for shortened life expectancy withdrawals for all LIF owners, regardless of whether or not their former pension plan contained a shortened life expectancy provision. Any LIF owner may now 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 Form 5 and be accompanied by a spousal consent, if applicable, and a statement signed by a physician who is licensed to practice medicine in Canada that, in his or her opinion, the 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.

If the pension plan from which the money in the LIF originated contained a variation of payment provision for shortened life expectancy, the LIF owner has the choice of applying under the terms of section 10, Schedule 1 (and should use Form 5) **or** applying under the terms of the 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 plan provisions would be where the plan provided a more generous shortened life expectancy criteria (e.g., a life expectancy of less than five years).

A LIF owner can only apply for a shortened life expectancy withdrawal under the rules described above if his or her LIF is governed by the laws of Ontario. If the LIF is governed by the laws of another province or the federal government, Ontario's shortened life expectancy provisions are not applicable. If the owner is not sure which laws govern their LIF, he or she should contact the administrator of the pension plan from which the LIF originated or the financial institution administering the LIF.

**Applications for Withdrawal of Money from a LIF of a Specified Amount at Age 55 or Over ("Small Amounts")**

In addition to the aforementioned general provisions for special applications, the following provisions apply to "Small Amounts" applications.

The locking-in rules present a problem when the amount in a LIF is so small that it would not be worthwhile for the owner to purchase a life annuity by age 80.

Effective March 3, 2000, the owner of a LIF may apply to withdraw **all** of the money in the LIF if:

- The owner is at least 55 years old when he or she applies; and
- The value of all assets held in all of the owner's Ontario LIRAs, LIFs and LRIFs 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 2003, this amount is 40% of $39,900 [the YMPE for 2003] = $15,960.)

The value of the assets held in each Ontario LIRA, LIF and LRIF 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.

LIF owners can only apply for the small amount withdrawal under the rules described above if their LIF is governed by the laws of Ontario. If the LIF is governed by the laws of another province or the federal government, these rules do not apply. If the owner is not sure which laws govern their LIF, he or she should contact the administrator of the pension plan from which the LIF originated or the financial institution administering the LIF.

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

In addition to the aforementioned general provisions for special applications, the following provisions apply to "Amounts 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 (LIRA, LIF or LRIF) on a tax-sheltered basis when a 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 deferred pension 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 former member's 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 a LIF, the owner may apply to the financial institution to withdraw the excess amount. It is up to the financial institution that administers the LIF to calculate the aggregate amount to be withdrawn.

The application must be made on Form 5 and must include a written statement from either the administrator of the owner's former pension plan or the Canada Customs and Revenue Agency ("CCRA") that sets out the excess amount that was transferred into the LIF. The consent of a spouse is not necessary.

LIF owners can only apply for the withdrawal of amounts that exceed the ITA limit under the rules described above if their LIF is governed by the laws of Ontario. If the LIF is governed by the laws of another province or the federal government, these rules do not apply. If the owner is not sure which laws govern their LIF, he or she should contact the administrator of the pension plan from which the LIF originated or the financial institution administering the LIF.

**Applications for Withdrawal of Money from a 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 access to the money in their LIF. The rules and requirements for making such applications will be set out in a future policy.

**Frequently Asked Questions About the LIF**

*How is the transfer of the commuted value from a pension plan to a LIF provided for under the ITA?*

For the purposes of the ITA, an Ontario LIF is actually a RRIF with some additional conditions. These additional conditions make the LIF an acceptable vehicle to receive locked-in funds under Ontario law. The ITA provides for a transfer from a defined contribution plan (clause 147.3(1)(c)(iii)) and from a defined benefit plan (clause 147.3(4)(d)(iii)) to a RRIF.

*Is specific wording required to allow a transfer to a LIF?*

Yes. For a pension plan document to provide for a transfer that is acceptable to both the federal and provincial regulators, the transfer provision must contain references to both the RRIF and the LIF. For Ontario's purposes, a portability option which permits a transfer to "a RRIF which meets the requirements for a LIF as set out in the Regulation under the *Pension Benefits Act*, as amended from time to time" will be acceptable. Information on wording acceptable under the ITA should be sought from CCRA.

In addition, the RRIF document, a specimen of which is required to be on file with the CCRA, must comply with both the contractual requirements under the ITA for a RRIF and under the Regulation for a LIF.

*How is money in the LIF taxed?*

Under the ITA, all investment earnings on the money in the LIF accrue on a tax-deferred basis. LIF payments and withdrawals are considered to be taxable income for the year in which payment or withdrawal was made. Further inquires should be directed to the CCRA.

*Are there any restrictions on how a LIF may be structured? Can a LIF be self-directed?*

A LIF can be structured in any manner as long as it satisfies the requirements in the ITA for a RRIF and the requirements in the Regulation for a LIF. This would include a self-directed LIF.

*Are there any investment restrictions that the LIF must comply with?*

The only investment rules that a LIF must comply with are those under the ITA for a RRIF.

*What is meant by "direct" and "indirect" transfers to a LIF?*

Direct transfers refer to those from a registered pension plan, while indirect transfers refer to transfers from another locked-in account (LIRA, LIF or LRIF).

*When a LIF is transferred from one financial institution to another, is the spouse's consent required?*

No. Consent is only required when the LIF is first purchased and when certain withdrawals are made.

*When an annuity is commuted for the purchase of a LIF, must the spouse consent?*

While there is no requirement for a spouse to consent to the commutation of the annuity for the purpose of purchasing a LIF, the spouse must consent to the actual purchase of the LIF. Therefore, if the money which is commuted is used for the first purchase of a LIF, the consent of the spouse is required for the LIF purchase.

*What rights does a spouse have when a marriage or relationship ends?*

A former spouse is entitled to make a claim against assets in a LIF as part of the division of marital property in the event of a breakdown in the marriage or relationship. However, that entitlement is effective only when a court order or domestic contract under the *Family Law Act* is provided to the financial institution administering the LIF. In addition, assets transferred to the former spouse due to the breakdown must continue to be locked-in.

*Where the minimum payment is greater than the maximum payment, which amount should be paid?*

Subsection 6(6) of Schedule 1 provides that the minimum amount must always be paid out of a LIF each year, regardless of what the maximum may be.

*Can a LIF owner withdraw the minimum amount and transfer the difference between the minimum and maximum to a RRIF?*

Yes, but if the owner does so, his or her withdrawal for that year for the purpose of the LIF will be the maximum amount.

*What happens when assets in a LIF are transferred to another LIF before any money is paid out to the owner?*

In this situation, the maximum amount that can be paid from the new LIF is zero. However, the ITA requires that the minimum amount be paid out from the old LIF before the transfer is made.

*Is the yearly maximum increased if money is transferred from a LIRA to a LIF during a year?*

No. Schedule 1 provides that the maximum amount for the fiscal year will be calculated based on the value of the assets of the plan at the start of that fiscal year.

*Where the assets in a LIF are invested in five-year GICs that will only deposit any earned interest at the end of the five year period, should accrued interest be included in determining the value of the LIF at the start of each year?*

Yes. The value of the assets at the start of a year includes any interest accrued to that date, even if the interest has not yet been paid and even if the interest would be forfeited if the GIC were subsequently cashed in before maturity.

*When can a LIF be converted into a life annuity? Can this be done before the owner is 80?*

The key determinant is when payments to the owner begin. Annuity payments may not begin until the individual is entitled to receive a pension benefit, which is generally 55 or an earlier age depending on the terms of the pension plan. The LIF owner may purchase a life annuity at any time but payments under it may not begin before he or she would have been entitled to receive payment of a pension benefit under the pension plan.

*On death of the LIF owner, can the surviving spouse "step into his or her shoes" and continue the LIF in the spouse's name?*

No. Death breaks the locking-in of LIF funds, so the survivor spouse is entitled to transfer the money in the LIF to an unlocked RRIF. The financial institution administering the LIF should not allow the survivor spouse to become the successor annuitant to the owner's LIF, even though this is permitted under the ITA for a RRIF.

*Can a LIF owner contribute non-locked-in money to their LIF?*

No.  The LIF is intended to be a vehicle for money that originated from a registered pension plan.  Individuals are not allowed to combine locked-in funds with non-locked-in money.

*Can the owner of an Ontario LIF combine it with a LIF governed by the laws of the federal government or another province?*

No.  The laws of each jurisdiction govern each LIF separately and LIFs governed by different jurisdictions may not be commingled.