

Update 06-02

Notice to Financial Institutions: Changes to Locked-in Products

Financial institutions on the Superintendent's List of Financial Institutions offering Locked-in Pension Products should be aware that changes have occurred which will directly impact administration of locked-in pension products. These changes came into effect August 10, 2006 with the coming into force of the *Employment Pension Plans Amendment Act, 2005* and the *Employment Pension Plans (General 2006) Amendment Regulation* (the Amendment Act and Regulation respectively), amending the *Employment Pension Plans Act* (the Act) and *Employment Pension Plans Regulation* (the Regulation) respectively. This Update has no legal authority. Financial institutions are strongly urged to refer directly to the Act and Regulation for specific requirements.

The Alberta Finance website (www.finance.gov.ab.ca/publications/pensions/) also provides further information on these changes.

Legislative Requirements

The new provisions are for the most part in the Regulation:

- Various definitions in sections 1 and 2
- Sections 38 through 41 - acknowledged financial institutions; provisions for Locked-In Retirement Accounts (LIRAs), Life Income Funds (LIFs), and Locked-in Retirement Income Funds (LRIFs)
- Section 43 – waiver forms
- Section 45 – unlocking of small amounts
- Section 46.1 – Defined Contribution Retirement Income Accounts (DC RIAs)
- Section 73.2 – transitional provisions
- Schedule 1 – prescribed LIRA and LIF Addenda; waiver forms
- Schedule 1.1 – 50% unlocking option
- Schedule 2 – application for inclusion on the Superintendent's List

In addition, definitions in section 1 of the Act, and the provisions of sections 85, 85.2 and 85.3 of the Act regarding attachments and seizures are relevant. (Replacement section 85 and new section 85.1, making minor changes to the former section 85, have not been proclaimed into force; section 85 as it existed prior to the Amendment Act remains in force.)

Definitions

The following terms are used frequently in this Update. Their legal definitions in the Act or Regulation should be consulted for greater certainty.

Locking In: means that the funds in the LIRA may not be paid in cash to the Original Owner. Instead they must be used to provide lifetime retirement income, beginning no earlier than age 50, for the Original Owner and their Pension Partner, if any, through the purchase of one or more of

- (a) a LIF
- (b) a pension or DC RIA under a pension plan
- (c) a non-commutable life annuity.

Alberta Locked-in Funds: funds that were originally transferred to a LIRA from a pension plan to which the locking-in rules of the Act and Regulation apply, by

- (a) a pension plan member who terminated membership in Alberta,
- (b) a surviving pension partner of a pension plan member who died while employed in Alberta, or
- (c) a former pension partner of a pension plan member who was employed in Alberta at the time of their marriage breakdown.

This does not include the pension funds of persons who worked in Alberta whose pension plans are subject to federal legislation: federal civil, military and police employees, and employees in federally-regulated industries (banking, telecommunications, shipping, and inter-provincial transportation).

Pension Partner: a married or common-law spouse of the Original Owner of a locked-in account; that is, a married spouse who has not been separated from the Original Owner for over three years, or if there is no such person, a common-law spouse living in a conjugal relationship with the Original Owner for three years, or “in a relationship of some permanence” if they have a child.

Owner: an Original Owner (see below), or a Surviving Pension Partner Owner (see below) or a Non-Member Pension Partner (see below).

Original Owner: a former pension plan member who has transferred his/her pension entitlement from the pension plan to a locked-in account

Surviving Pension Partner Owner: a Pension Partner who acquired the account as a result of the pension plan member’s death whether that death occurred before or after the member transferred their funds out of the pension plan

Non-Member Pension Partner Owner: an Owner who acquired a locked-in account as a result of a matrimonial property settlement.

Waiver: there are several instances where the pension partner of an original owner may waive (give up) some or all of an entitlement. Various waivers are prescribed in the Regulation to accommodate these different circumstances. References to a numbered form in this Bulletin refer to the specific prescribed waiver that is applicable in the circumstance being discussed. (See [Policy Bulletin # 35 – Pension Partner Waivers](#)).

Defined Contribution Retirement Income Account (DC RIA): an account similar to a LIF that may be offered by a defined contribution pension plan, to and from which locked-in funds may be transferred. (See [Policy Bulletin #30 – Defined Contribution Retirement Income Accounts](#)).

**New 50 %
Unlocking
Option at or after
age 50**

Effective November 1, 2006 a new one-time 50 % unlocking option is to be made available to LIRA owners upon transfer of their account into a retirement income product, such as a LIF, with pension partner consent. Please refer to [Policy Bulletin #34 – 50% Unlocking](#). This is available only to persons age 50 or over as that is the minimum age at which retirement income may be drawn from Alberta Locked-in Funds. The unlocked funds may be taken in cash less withholding tax or rolled over into a Registered Retirement Savings Plan (RRSP) or Registered Retirement Income Fund (RRIF). To extend this option to those who have already transferred their funds to a LIF or an LRIF, a transitional provision has been made (see below).

Before making the payment, ensure that funds in the LIRA/LIF/LRIF are Alberta Locked-in Funds.

Transitional Provision for Current Holders of LIFs or LRIFs

As per section 73.2 of the Regulation, where a financial institution is granted the ability to offer the new LIF product, that institution has 90 days to covert existing LIF / LRIF holders to the new product. Thus, existing LIF / LRIF holders must be given the option to withdraw under the 50% unlocking provision before converting to the new account. After December 31, 2007 no unlocking may be made from existing LIFs. (LRIFs will by then be discontinued – see below.) Financial institutions must include in the January 2007 annual statement (or earlier by separate communication) to owners of LIFs/LRIFs established before November 1, 2006 a statement advising them of the unlocking option.

In the transition period between November 1, 2006 and December 31, 2007, financial institutions are expected to ensure that the option is exercised only once on each LIF or LRIF. After **December 31, 2007** this tracking duty will no longer be required because the option will not be available from a LIF.

**Pension Partner
Waivers
Required for 50%
Unlocking**

An Original Owner with a Pension Partner cannot unlock 50% of the funds unless the Pension Partner signs a waiver, indicating he/she chooses Option 1 of Part 1 of [Form 6](#) prescribed by the Act. The waiver will be required, at the time when the Original Owner is choosing to unlock the funds, if:

- a) the funds in the LIRA belong to an Original Owner with a Pension Partner when the option to unlock funds is being exercised, or
- b) (during the transitional period) the funds in a LIF or LRIF belong to an Original Owner who had a pension partner at the time the funds were transferred to the locked-in account and that person is still that Original Owner's Pension Partner.

A waiver is not required if the locked-in account Owner is a Surviving Pension Partner Owner or a Non-Member Pension Partner Owner. The Act and Regulation give survivor pension rights to plan members' pension partners, but if those individuals have a subsequent spouse, after the member's death or a divorce, that subsequent spouse has no right or obligation.

**Locked-In
Retirement
Income Fund
(LRIF) to be
discontinued**

Existing LRIFs are to be converted to another locked-in retirement income product by December 31, 2007 at the latest. As of December 31, 2007, or sooner, all LRIFs are to be converted to LIFs. Of course, the owner would also have the option of purchasing an annuity with the LRIF account or part of it. (Note: The LRIF cannot be transferred to a LIRA.). Financial Institutions will be required to provide the Superintendent with a list of all those individuals for whom they still hold LRIF accounts on January 1, 2008. See [Policy Bulletin 12 – Locked-in Retirement Income Funds](#) for further information.

The Superintendent's List Financial institutions currently on the list must reapply to appear on the new [Superintendent's List](#). The new [application and certification](#), which may be found on the website cited in this Update, should be completed and re-submitted as soon as your institution is ready to meet the new LIRA and LIF requirements. The new applications must be received by the Superintendent by December 16, 2007 to ensure that your financial institution is on the List on January 1, 2008 **Failure to respond by December 16, 2007 will result in your financial institution being removed from the Superintendent's List** and therefore not eligible to sell locked-in products. In extenuating circumstances, the Superintendent may grant an extension.

Prescribed LIRA and LIF Addenda Financial institutions will no longer be required to draft [LIRA](#) and [LIF](#) addenda for approval by the Superintendent. Instead, the Act prescribes a LIRA and a LIF addendum that must be attached to each existing contract as well as any new contracts established after the financial institution is acknowledged on the new Superintendent's List. Once the financial institution has applied for and received acknowledgement that it is on the new list, it must use the new addenda. They are available on the website.

New Pension Partner Waiver Forms New waiver forms are being introduced. These waiver forms are standard documents which must be used by all financial institutions in their administration and record-keeping. They are available on the website.

In a LIRA – Pension Partners can give up their entitlement to the death benefit upon the death of the LIRA's Original Owner if they complete [Form 3](#) prior to the death of the Original Owner.

In a LIF - where a former LIRA Original Owner wants to start a LIF, a new waiver form for Pension Partners ([Form 6](#)) has been developed. This waiver is divided into different sections, to permit the purchase of the LIF by waiving entitlement to the 60% joint life annuity, to allow for the 50% unlocking, and to allow a Pension Partner to give up their entitlement to the death benefit that is payable when the LIF Original Owner dies. Both forms are available on the website.

Changes to LIRA – See also Summary Table 1

- 50% unlocking is available at time of transfer into a LIF, a DC RIA or annuity from a LIRA, provided the Part 1, Option 1 of [Form 6](#) is signed.
- A Pension Partner of a LIRA owner may have signed a death benefit waiver ([Form 3](#)), which would have to be held by the financial institution and transferred if the funds are transferred.
- The LIRA can no longer receive funds from a LIF, LRIF or DC RIA.

- It can also now be used for investment in the owner's mortgage or the mortgage of a relative. The rules under the federal *Income Tax Act* for investment of RRSPs in mortgages apply.
- Mandatory provisions are also being introduced to permit commutation on shortened life expectancy and non-residency.

See [Policy Bulletin #10 – Locked-In Retirement Accounts](#) for further information on the new LIRA provisions.

Changes to LIF
See also
Summary Table 2

- There is no longer a requirement to purchase a life annuity at age 80.
- The maximum withdrawal factors will be increased and will be the greatest of three amounts: the *Income Tax Act* minimum RRIF withdrawal, the annuity factor of a term-certain annuity to age 85, and the investment earnings of the previous year.
- Pension Partners may now waive beneficiary status.
- Mandatory provisions to permit commutation on shortened life expectancy and non-residency are being introduced.
- LIFs can be used to invest in a mortgage or in the mortgage of a relative. (*Income Tax Act* rules regarding RRIFs apply.)
- LIF funds may not be transferred back to a LIRA.

See [Policy Bulletin #11 – Life Income Funds](#) for further information on the new LIF provisions.

Transfer Limitations with the LIF

To ensure that the new unlocking option is exercised only once by a LIF or LRIF owner, transfer limitations have been introduced. Once a LIF or LRIF account is opened, it can not be transferred back into a LIRA or to a pension plan other than to provide immediate retirement income.

The 50% Unlocking Option and the Small Amounts Unlocking

If 50% of the account is unlocked and the remaining 50% is less than 20% of the Year's Maximum Pensionable Earnings (YMPE) under the Canada Pension Plan (\$8,420 in 2006, adjusted yearly with changes in average wages), this amount can also be unlocked at the option of the Owner. Once the Owner reaches age 65, the amount is 40% of YMPE per individual account. (\$16,840 in 2006, also adjusted yearly) Form EP 46-02 is no longer required.

Seizure for Maintenance Enforcement

Funds held in a LIRA, LIF or LRIF and payments being made to the Owner are not exempt from seizure pursuant to a maintenance order issued by the Director of Maintenance Enforcement. See [Policy Bulletin #36 – Maintenance Enforcement Act Provisions](#) for further information.

**Financial
Institution's
Responsibilities
to Clients**

All financial institutions who administer locked-in products should carry out the following actions:

Communication to current LIRA / LIF / LRIF holders

- Inform all existing LIF and LRIF Owners in writing of the one-time 50% unlocking option. This communication can be part of the December 31, 2006 annual statement or be sent separately. Existing LIF and LRIF contracts will be deemed to contain the 50% unlocking provision.
- LRIF Owners must be informed that their product is being discontinued and that their funds must be converted to a LIF or life annuity. Conversion must occur at the earlier of 90 days after the Financial Institution appears on the Superintendent's list to offer new LIFs, or December 31, 2007.
- Certain of the new LIRA and LIF provisions are deemed to be included in existing LIRA, LIF and LRIF contracts (no amendment is required). These are
 - i. the entitlement of a Pension Partner of an Original Owner to waive the right to be the beneficiary
 - 1. under a LIRA by signing and filing a [Form 3 Waiver](#), and
 - 2. under the LIF/LRIF by signing and filing an Option 3 of [Form 6 Waiver](#);
 - ii. the entitlement of an Owner to invest in his or her own mortgage or that of a relative
 - iii. the right of the Owner to exercise the 50% unlocking option subject to the conditions previously described. LIF Owners and LRIF Owners are to be given details on these new provisions.
- LIRA Owners must be informed of the 50% unlocking option provided the Owner is age 50 and is choosing to transfer funds to a LIF, annuity or DC RIA.

- In accordance with section 73.2 of the Regulation, as soon as a financial institution is on the new Superintendent's List, the financial institution has 90 days to convert all LIRAs and LIFs to the new LIRA and LIF as applicable and a copy of the new LIRA or LIF addendum, as the case may be, must be given to existing Owners. At the same time all LRIF owners must be given the option of transferring their LRIF to a LIF or purchasing a life annuity. If the former option is chosen, a copy of the new LIF addendum must be immediately given to the former LRIF owner.
- For current LIF holders, the financial institution must also provide these individuals with the option of an additional withdrawal from their LIF.

This additional withdrawal is based on the pro-rated maximum withdrawal (using the **new** withdrawal provisions calculated from the effective date the new LIF is available) which is in excess of the maximum amount calculated under the **old** withdrawal provisions.

This requirement is applicable in the partially completed calendar year in which the new LIF is offered by the financial institution.

Communication to future LIRA and LIF holders

All persons purchasing a new LIRA or LIF on must be given a copy of the prescribed addendum when the LIRA or LIF is purchased.

Tracking and Record Keeping re: the 50% Unlocking Option

Financial institutions are required to track and document the exercise of the 50% unlocking option on LIFs or LRIFs until December 31, 2007. If the LIF or LRIF is transferred to another financial institution, the sending institution must alert the receiving institution if the 50% unlocking has been exercised. If the unlocking option is exercised and there is a signed Pension Partner waiver form, a copy of it must be sent to the receiving institution.

TABLE 1 (LIRA)

New Feature	Pre-Retirement Death Benefit Waiver (Form 3) [optional for Pension Partner]
New Feature	50% unlocking option at time of transfer into a LIF [optional for Owner]
New Feature	Cannot receive funds from a LIF or DC RIA
New Feature	Can invest in own mortgage or mortgage of a close relative
New Feature	Mandatory provisions to permit commutation on shortened life expectancy and non-residence (Form 5)
Transfer to a LIRA	May come from: a) pension plan (other than a DC RIA provision) b) another LIRA
Transfer from a LIRA	Only to the following destinations: a) another LIRA b) a pension plan (provided plan text allows for transfers) c) a LIF d) a DC RIA e) an annuity with an insurance company f) with respect to the 50% unlocked, withdrawn in cash less tax or rolled over to a regular RRSP or RRIF
Transferor / Sending Financial Institution	Must: a) Confirm that the funds are Alberta Locked-in Funds. b) Ensure that the receiving financial institution is acknowledged, or in the case of a pension plan, that it is registered. c) If destination (a) or (b) above and <i>if</i> Form 3 was signed a copy of the Form 3 waiver must be sent to the transferee (receiving) institution. d) If destination (c), (d), (e) or (f) is chosen the 50% unlocking option must be offered and if the owner is an Original Owner with a Pension Partner at the date of transfer, and unlocking is chosen, Part 1 of Form 6 must be signed, indicating Option 1 has been chosen and the financial institution must keep a copy of the waiver. e) If the destination is (c), (d) or (e), and the owner is an Original Owner with a Pension Partner at the date of transfer, the financial institution must ensure that Option 2 of Part 1 of Form 6 is signed, unless in the case of (e) a 60% joint life annuity is being purchased. Where one is required, a certified copy of the Option 2 waiver must be sent to the receiving institution.

Form References:

- [Form 3](#): Pension Partner Waiver of Pre-Pension Commencement Death Benefit under Pension Plan or LIRA.
- [Form 5](#): Pension Partner Waiver to Permit Commutation due to Shortened Life or Non-residency status.
- [Form 6](#): Pension Partner Waiver of Post-Pension Commencement Death Benefits on Transfer to a LIF, DC RIA or Annuity (Option 1, Pension Partner Waiver for 50% unlocking option; Option 2 – Pension Partner waiver of joint life pension; Option 3 – Pension Partner waiver of beneficiary rights).

TABLE 2 (LIF)

New Feature	New maximum based on the greatest of: a) Income Tax Act minimum b) New formula based on factors for a term-certain annuity to age 85 [available on Alberta Finance website] c) Investment earnings for the year
New Feature	No requirement to purchase an annuity at age 80
New Feature	Pension Partner may waive beneficiary status [optional – by signing Form 6 , Part 2, Option 3]
New Feature	Mandatory provisions to permit commutation on shortened life expectancy and non-residence (Form 5)
New Feature	No transfer back to a LIRA or a pension plan (other than to a DC RIA provision)
New Feature	Can invest in own mortgage or mortgage of a close relative
Transfers to a LIF	May come from: a) a pension plan (including a DC RIA) b) another LIF c) a LIRA d) a LRIF
Transfers from a LIF	Only to the following destinations: a) another LIF (tracking of any withdrawal under the 50% unlocking option required until December 31, 2007) b) an insurance company to purchase an annuity c) a pension plan to purchase a DC RIA d) with respect to the pre-2008 50% unlocking, withdrawn in cash less tax or rolled over to a regular RRSP or RRIF
Transferor / Sending Financial Institution	Must: a) Confirm the funds are Alberta locked-in funds. b) Ensure that the receiving financial institution is acknowledged, or in the case of a pension plan that it is registered. c) If the Owner was an Original Owner with a Pension Partner provide a copy of the signed copy of Part 2 of Waiver Form 6 to the transferee (receiving) institution.
Transition: 50% unlocking	During the period November 1, 2006 to December 31, 2007 unlocking from a LIF or LRIF must be tracked and where a transfer between institutions occurs, the sending institution must notify the receiving institution of a previous unlocking to ensure no double-dipping.

Form References:

- [Form 3](#): Pension Partner Waiver of Pre-Pension Commencement Death Benefit under Pension Plan or LIRA.
- [Form 5](#): Pension Partner Waiver to Permit Commutation due to Shortened Life or Non-residency status.
- [Form 6](#): Pension Partner Waiver of Post-Pension Commencement Death Benefits on Transfer to a LIF, DC RIA or Annuity (Option 1, Pension Partner Waiver for 50% unlocking option; Option 2 – Pension Partner waiver of joint life pension; Option 3 – Pension Partner waiver of beneficiary rights).

For further information, please contact:

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