



Policy Bulletin #34 50 % Unlocking

Issued August 2006 / Revised October 2006

The *Employment Pension Plans Regulation* (the Regulation) has been amended to permit unlocking of up to 50% of the value of a pension plan benefit or locked-in account, **effective November 1, 2006**, subject to certain requirements. This Bulletin has no legal authority; the Act and Regulation should be used to determine specific legal requirements.

Legislative References Regulation

Schedule 1.1 of the Regulation requires plans and LIRAs to permit a member/owner to unlock up to 50% of his or her benefit subject to certain conditions.

General Rules

WHO may unlock?

A person who is **at least age 50** and who is either:

a) withdrawing funds from a pension plan due to a termination, retirement, death or divorce and moving the funds to a LIF, annuity, or a DC RIA

or

b) an owner of a Locked-In Retirement Account (LIRA) who is converting the account to a LIF or purchasing an annuity, or, subject to the **Transitional Provisions** below, a Life Income Fund (LIF) or Locked-In Retirement Fund (LRIF) owner.

Some people will have to have their pension partner's (spouse's) permission – see **Pension Partner Waiver** below.

Only funds that are subject to Alberta law may be unlocked. See **Alberta Locked-in Funds** below.

WHEN may unlocking occur?

If that person's funds are in a pension plan or LIRA, they may unlock when they are about to transfer money out of the pension plan or LIRA to a LIF, life annuity or DC RIA.

If that person's funds are in a LIF or LRIF that was established before November 1, 2006, they may unlock at any time until December 31, 2007.

WHAT may be unlocked? Up to 50% of the value of the benefit in the pension plan or the value of the locked-in account.

HOW will it be paid? The unlocked amount may at the option of the account owner, be paid in cash or transferred to that person's RRSP or RRIF.

- Unlocking is not permitted if the member is receiving a pension from the plan, or if the plan does not allow the member to transfer the money out of the plan (some plans will not allow transfers after the member reaches a certain age).
- **From November 1, 2006 on**, the 50% unlocking option must be offered whenever a LIRA is converted to a LIF or an annuity. The unlocking will occur at the same time that the funds move into the LIF / annuity. (The funds are split at the source – half will go to the retirement vehicle, the other half will be available on a non-locked-in basis).
- **No funds in a LIF / Annuity / DC RIA may be unlocked.** The ONLY exception to this requirement applies to LIFs and LRIFs that were established **before** November 1, 2006. Please refer to the transitional provisions below.
- In addition to the 50% unlocking provision, the Regulation also sets out amended LIF provisions (the new LIF). It is important to note that the **50% unlocking option applies separately from the amended LIF provisions**. After November 1, 2006, the 50% unlocking option must be offered **any time** a LIF account is created regardless of whether or not that LIF is a new LIF.

Alberta Locked-in Funds Only funds subject to Alberta law (the *Employment Pension Plans Act* and *Regulation*) are eligible. The person who earned the money in their pension plan must have been working in Alberta just before they terminated employment, retired, died or were divorced.

People who worked for Alberta public employers whose pension plans require locking-in under the EPPA are eligible for the unlocking once funds have been moved to a LIRA (or, for a transitional period, to a LIF – see below).

People who were working in other provinces; federal, civil, military or police employees; and employees in federally regulated industries (banking, telecommunications, shipping, and inter-provincial transportation) are not eligible.

Pension Partner Waiver

If there is a pension partner (married or common-law spouse) when the decision to unlock is made, the funds cannot be unlocked unless the pension partner consents by signing a waiver giving up their entitlement to a survivor pension from the amount that is being unlocked.

This waiver is found in Option 1 of Part 1 of [Form 6](#) [for waiver forms, see website address below].

No waiver is required if the person who owns the account and is choosing the unlocking has no pension partner or is a surviving pension partner, or the ex-spouse of a plan member.

Duties of the Administrator or Financial Institution

The plan administrator or financial institution, as applicable, must provide persons who are eligible to unlock part of their benefit/account with a statement that

- indicates the total value of the benefit/account and the maximum amount that may be unlocked, and
- advises the person of the pension partner waiver requirement. The administrator or institution must obtain a signed waiver if applicable.

The administrator or institution shall transfer the unlocked funds concurrently with the transfer of the locked-in funds.

Transitional Provisions

Persons who established a LIF or an LRIF **prior to November 1, 2006** will have a one-time opportunity to choose to unlock up to 50% of the value of their account. This choice must be made before December 31, 2007.

This choice must also be offered before the LIF / LRIF owner is moved to the new LIF.

If the LIF or LRIF owner has a pension partner, then the unlocking cannot occur unless the waiver of entitlement (i.e. the check-box) under **Option 1** of the [Form 6](#) waiver is completed, and the pension partner signs the relevant certification.

No waiver is required if the person who owns the account and is choosing the unlocking has no pension partner or is a surviving pension partner or the ex-spouse of a plan member.

Once an unlocking withdrawal has been made the financial institution must flag the LIF or LRIF account to ensure that no further unlocking withdrawal can be made and must alert the receiving institution of this if the money is transferred to another financial institution. This tracking is only required until January 1, 2008. On and after that date, unlocking may not occur from any LIF. LRIFs will no longer exist.

Frequently Asked Questions

I am in a Defined Benefit pension plan that allows for transfers from the plan fund to a LIF. The commuted value of my benefit is greater than the maximum allowable transfer under the Income Tax Act. How do I apply the 50% unlocking rule?

The 50% unlocking provision in the above scenario would be applied to the commuted value of that benefit before taking into account any amount that, under the ITA, is in excess of the minimum tax sheltered amount. Because the commuted value is greater than the maximum transfer limit permitted by the ITA, the application of the 50% provision will still apply to the commuted value; however, a portion of the non-locked-in fund will have to be paid as cash (less tax).

Example:

Commuted value = \$400,000. Desired transfer to a LIF.
Maximum Transfer Limit = \$350,000
50% of commuted value = \$200,000

In this example, \$200,000 would transfer to the LIF, \$150,000 of the non-locked in funds could transfer to an RRSP / RRIF, and the remaining \$50,000 must be paid as cash, less tax.

How do you apply the 50% provision? Is it based on the date of application or the date of payment?

Normally, it is anticipated that the value of the benefit to be unlocked will not differ between the date of application for the 50% provision and the date of payment. However, in those instances where there is an application of interest gains / losses after the date of application, it is acceptable to pay 50% of the account balance as of the date of payment.

Does the 50% provision apply on deferred annuity purchases?

The purchase of a deferred annuity is similar to the election of a deferred pension from a DB pension plan. In taking a deferred pension, the member agrees to commence a pension worth \$X per month starting at some future date.

The ability to withdraw 50% at the time of deferred annuity purchase will depend on that individual's age. A person who is at least 50 is eligible to transfer 50% of the commuted value of their benefit (or 50% of their account balance) out of the plan on a non-locked-in basis.

However, if they are age 49 and younger, the 50% unlocking provision will not be available because they did not meet the required age provision. Thus, in choosing a deferred annuity prior to age 50, they **forego the ability** to apply the 50% provision. For any person who elects a deferred annuity but is younger than age 50, the plan administrator must explain that the 50% unlocking option is not available to them.

My pension plan allows for a transfer from the plan fund to a LIF, or annuity. However, the plan hasn't been amended to provide for the 50% unlocking provision. Can I still take 50% on that transfer?

After November 1, 2006, any person who is at least age 50 and is transferring from a pension plan to a LIF, annuity, or DC RIA will be able to take advantage of the 50% provision even if their pension plan has not been amended to provide for the transfer.

I am terminating employment and I am over the age of 50. However, my pension plan will only allow me to transfer my funds to a LIRA. How can I use the 50% provision?

The 50% unlocking option will be available to you when you convert that LIRA into a LIF or annuity.

I am over 50 years old and in a defined benefit pension plan. I want to retire but the only option I have is a monthly pension from the plan. Why doesn't the 50% unlocking provision apply?

Under the *Employment Pension Plans Act*, defined benefit pension plans can restrict portability to people who are within ten years of normal retirement age. If you are within 10 years of normal retirement age and your plan has this restriction, the only option available is to receive a monthly pension from the plan.

Examples of the Application of the 50% Provision for Financial Institutions

Situation – Client has a LIF / LRIF that was established prior to November 1, 2006.

Application – On and after November 1, that LIF / LRIF holder can remove up to 50% of that particular account on a non-locked-in basis. The financial institution holding this account must track the fact that the withdrawal was made until December 31, 2007. Thereafter, no tracking is required because owners of LIFs will not be eligible to unlock 50% of the account after that date.

Situation – A financial institution has not yet applied to the Superintendent of Pensions to offer the new LIF and it is after November 1, 2006. A client wishes to convert his/her LIRA into a LIF. Since the institution isn't offering the new LIF, that client must convert into an old form of LIF.

Application – The deeming provisions of Schedule 1.1 of the Regulation allows the financial institution, at the time the LIF is established (even though it is subject to the old provisions), to allow that client to withdraw 50% on a non-locked-in basis. The financial institution holding this account must track the fact that the withdrawal was made until December 31, 2007.

Situation – A financial institution has applied to be on the Superintendent's List and has been granted consent to offer the new LIF. A number of clients still have old LIFs and LRIFs but any new client goes into the new LIF.

Application – For the existing LIF / LRIF holders that have not done so at an earlier date, the financial institution must determine whether that client wishes to withdraw up to 50% of the account balance **before the account is moved to the NEW LIF**. Section 73.2 of the Regulation provides that the conversion from the old LIF to the new LIF must occur within 90 days from that institution obtaining consent to offer the new LIF. In any event, by December 31, 2007 and regardless of whether that client has made a decision regarding the 50% withdrawal, that client must be moved to the new LIF. Once in the new LIF, the 50% provision no longer applies.

For clients establishing a new LIF, the option for 50% transfer occurs at the time the new LIF is established.

For further information please contact:

Superintendent of Pensions
Alberta Finance
Room 402, 9515 - 107 Street
Edmonton, AB T5K 2C3

Telephone: (780) 427-8322

Fax: (780) 422-4283

Internet: <http://www.finance.gov.ab.ca/>

For toll-free dialling, contact your local Alberta Government R.I.T.E. line by calling 310-0000.