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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.*

*Note: Corrections were made to this document on April 30, 2007 as follows:*

*Page 4, under Minimum Payment Formula, second sentence – "age 79" changed to "age 71"*

*Page 8, in heading **Applications for Withdrawal of Money from a LIF for Amounts that Exceed ITA Limits** – "LIF" changed to "LRIF"*

This policy includes the following headings:

**Introduction - The Ontario Locked-In Retirement Income Fund**

**Sale and Purchase of an LRIF**

**Sources of Funds for LRIFs**

**Requirements for Annual Payments**

**General Provisions**

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**Special Applications for Withdrawal of Money from an LRIF: Shortened Life Expectancy, Small Amounts and Amounts that Exceed *Income Tax Act* (Canada) Limits**

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**Appendix - Examples for the Calculation of the Maximum Annual Income Payment Amount**

## **Introduction - The Ontario Locked-In Retirement 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 account, the Ontario Locked-In Retirement Income Fund (“LRIF”). Most of the legislative requirements respecting LRIFs can be found in Schedule 2 of the Regulation.

The Regulation was amended in March 2000 to provide for the LRIF, which was intended to provide an alternative retirement income vehicle to the Ontario Life Income Fund (LIF). Like the LIF, the LRIF is a Registered Retirement Income Fund (“RRIF”) under the *Income Tax Act* (Canada) (“ITA”) that is designed with additional requirements under the PBA and Regulation to hold and distribute locked-in pension funds. However, there are some key differences between the LRIF and the LIF:

- the maximum annual income amount that can be paid from the LRIF each year is generally based on its investment earnings in the previous year;
- there is no requirement under the LRIF for the purchase of a life annuity by age 80; and
- where an LRIF owner is not paid the maximum amount he or she is entitled to be paid in a particular year, the unused amount may be carried forward to future years.

## **Sale and Purchase of an LRIF**

### Who Can Sell an LRIF

An LRIF may be sold by any financial institution as long as the LRIF 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 LRIFs can include life 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 LRIF contracts for approval, nor does the Financial Services Commission of Ontario (“FSCO”) maintain a list of approved LRIF contracts, as some Canadian jurisdictions do. FSCO does not register LRIFs and will not review specimen LRIF contracts for compliance with the applicable requirements.

### Who Can Purchase an LRIF

Subject to the conditions for purchase noted below, an LRIF 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 an Ontario Locked-In Retirement Account (“LIRA”), LIF or another LRIF.

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 an Ontario LRIF.

### Additional Conditions for an LRIF

The earliest age that an individual can purchase an LRIF is generally 55, but 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 an LRIF 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. Unlike the LIF, there is no deadline or latest age restriction for the purchase of an LRIF.

When transfers are being made from a registered pension plan to an LRIF, 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, before permitting LRIF payments to commence prior to age 55, 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.

If the individual who wishes to purchase an LRIF has a spouse on the day the LRIF is purchased, the written consent of the spouse is generally required before the LRIF 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 LRIF 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 not required.

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

The spouse should be aware that he or she can refuse to provide such a consent; to do so is solely at his or her option. However, the LRIF cannot be purchased unless the consent is given. Spouses might decide to withhold consent to the purchase of an LRIF for any number of reasons. For example, annual payments from an LRIF 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 amounts held in the LRIF may be invested in the markets at the direction of the LRIF owner and investment returns may not be guaranteed, investment losses may occur and reduce the balance in the LRIF.

### **Sources of Funds for LRIFs**

#### Primary Sources

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

#### Commuted Annuities

##### (1) Annuities purchased prior to October 1992

If an individual is currently receiving payments from a life annuity that was purchased before October 1992 (when Ontario LIFs were introduced), the annuity may be commuted to purchase an LRIF (or LIF) 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 an LRIF or LIF if the former member satisfied the age requirement for an LRIF or LIF purchase.

Issuers of annuities who agree to transfer funds to an LRIF or LIF are obligated to identify the commuted value of the annuity, and the amount that will be available for the LRIF or 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 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, since March 2000, 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 LRIF (or LIF) 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 an LRIF each fiscal year, except in the initial year of the LRIF. The LRIF owner may choose not to be paid any money in the first year but must begin receiving payments from the LRIF before the end of the second year. The fiscal year of an LRIF must end on December 31 and may not exceed twelve months. When an LRIF 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.

At the beginning of a new year (or at another time agreed to by the financial institution and the LRIF owner), the financial institution must determine the minimum and maximum amounts that may be paid from the LRIF and notify the owner. The owner must then notify the financial institution 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 LRIF owner.

#### Minimum Payment Formula

The minimum amount that must be paid from the LRIF 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 LRIF 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 LRIF owner has a spouse, that person's age may be used to calculate the minimum in accordance with the ITA rules.

#### Maximum Payment Formula

In general, the maximum annual income amount that can be paid from an LRIF in a year is the amount that the LRIF earned during the previous fiscal year. Subsection 6(1) of Schedule 2 to the Regulation provides that this amount is the greater of:

1. The value of the LRIF at the beginning of the fiscal year minus the amount calculated by subtracting all amounts that have been transferred out of the LRIF since it was established (except for annual income payments) from all amounts that have been transferred into the LRIF since it was established. The value of the LRIF at the beginning of the fiscal year is the market value of the assets, not the book value of the assets. The amounts transferred into and out of the LRIF since it was established include only the lump sum amounts transferred into or out of the LRIF, such as amounts originating from a LIRA, LIF or another LRIF. **The regular annual income payments (including carry forward amounts) allowed under section 6 of Schedule 2 are not included in these transferred amounts.**

2. The investment earnings in the immediately previous fiscal year of the LRIF, including any unrealized capital gains or losses. This amount is calculated by taking the LRIF balance on December 31 of the year in question minus the LRIF balance at the start of the fiscal year, plus the value of any payments and transfers out of the LRIF during the year in question, minus the value of any additional money added to the LRIF during the year in question.
3. In the first two years of the LRIF (the year in which the LRIF was established and the year that follows), 6% of the market value of the LRIF at the beginning of the fiscal year.

Note that if the LRIF was purchased with funds from a LIF or from another LRIF, the maximum annual income amount that may be paid out in the first fiscal year of the new LRIF is zero - the owner cannot be paid any income amount from it. For the second year, the maximum annual income amount that may be paid out of the new LRIF is the greater of the amounts calculated in paragraphs 1, 2 and 3 above, and the following amount:

4. The sum of the investment earnings of the original LIF or LRIF in the year that the new LRIF was established, up to the date that the new LRIF was established, plus the investment earnings of the new LRIF during its first fiscal year.

If the first fiscal year is less than 12 months, the maximum amount payable in that year must be pro-rated; that is, it must be multiplied by the number of full or partial months in the period between establishing the LRIF and the calendar year-end, divided by 12.

If the maximum annual income payment amount is less than the required minimum payment under the ITA, the minimum payment must still be made.

Unlike the LIF, the LRIF contains a unique "carry forward" provision. If the LRIF owner chooses to be paid an amount that is less than the maximum annual income payable in a fiscal year, the difference between the maximum and the amount actually paid may be carried forward without impacting the calculation of the maximum and minimum annual income payable under the LRIF in a subsequent year. In any fiscal year, the LRIF owner may choose to be paid all or part of the amount carried forward from a previous year.

Note that the maximum annual limit on regular income payments from the LRIF does not apply to the special applications to withdraw money from an LRIF as described below. In addition, the maximum annual income payment limit for a year does not change if money is withdrawn under one of these special applications.

See the Appendix for examples of how to calculate the maximum annual income payment amount.

## **General Provisions**

### No Commutation or Surrender

Money in an LRIF 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 income payments from an LRIF or the following exceptions by which money in an LRIF can be withdrawn by special application:

- small amounts (Schedule 2, s. 8);
- shortened life expectancy (Schedule 2, ss. 3 and 9, and PBA s. 49);
- excess contributions over the ITA limit (Schedule 2, ss. 3, and Regulation s. 22.2); and
- financial hardship (PBA s. 67 and Regulation Part III).

### Transfer Options

The owner of an LRIF may transfer any or all of the assets in the fund to another LRIF; to a LIF; to a LIRA (before December 31 of the year in which the owner reaches age 69); or to purchase an immediate life annuity.

### Survivor Entitlements

If the LRIF owner dies and there are assets remaining in the LRIF, the owner's spouse is entitled to receive a benefit equal to the value of the assets in the LRIF. This death benefit is not locked-in. If there is no spouse, the owner may name a beneficiary who will become entitled to the death benefit. If there is no named beneficiary, the owner's estate becomes entitled to the death benefit.

A spouse living separate and apart from the LRIF 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.

The spouse of the LRIF owner does not have the ability to waive his or her right to survivor benefits under the legislation.

### Information that Must be Provided by the Financial Institution

Schedule 2 provides that an LRIF contract must contain specific information, including: the name and address of the financial institution; the owner's powers, if any, respecting investment of the LRIF assets; a statement that the owner agrees not to assign, charge, anticipate or give as security money payable under the LRIF (except if required by a court order or domestic contract under the Ontario *Family Law Act*); and a description of the method for determining the value of the assets in the LRIF.

In addition, at the beginning of each fiscal year, the following information must be provided to the owner with respect to transactions in the prior calendar year: the sums deposited into the LRIF; accumulated investment earnings (including any unrealized capital gains and losses); payments made out of the LRIF; 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 (including any carry forward amount). This information must also be provided to the owner when money is transferred from the LRIF to another LRIF, LIRA or 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 LRIF and LRIFs Established in Other Jurisdictions**

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

Please note that while the Ontario LRIF is similar to LRIFs in other jurisdictions, there are some significant differences. Individuals should contact pension regulators or financial institutions in other jurisdictions for more information about LRIFs regulated by jurisdictions other than Ontario.

## **Special Applications for Withdrawal of Money from an LRIF: 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 an LRIF 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 LRIF 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 LRIF owner).

The consent of a spouse is not required for applications to withdraw amounts that exceed ITA limits. For shortened life expectancy and small amounts applications, the consent of a spouse is required unless the LRIF owner and spouse are living separate and apart at the time the application is signed. In addition, consent of a spouse is not required if the money in the LRIF 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 LRIF within 60 days after the latest date on which it was signed by either of the owner or, 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 an LRIF for Shortened Life Expectancy**

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

If the pension plan from which the money in the LRIF originated contained a variation of payment provision for shortened life expectancy, the LRIF owner has the choice of applying under the terms of section 9, Schedule 2 (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., less than five years shortened life expectancy).

#### Applications under the Terms of the Former Pension Plan

If the pension plan from which the money in the LRIF originated contains a provision allowing for the variation of payment due to shortened life expectancy, the LRIF owner can seek to withdraw money from the LRIF under those terms. The LRIF owner is responsible for satisfying the financial institution administering the LRIF 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 former pension plan.

#### Applications under Section 9 of Schedule 2

Schedule 2 provides for shortened life expectancy withdrawals for all LRIF owners, regardless of whether or not their former pension plan contained a shortened life expectancy provision. Any LRIF 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 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.

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

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

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

Prior to March 2000, the locking-in rules presented a problem when the amount in an LRIF was so small that it would not have been worthwhile for the owner to purchase a life annuity by retirement age.

As a result of the amendments to the Regulation in March 2000, the owner of an LRIF may apply to withdraw **all** of the money in the LRIF 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, LRIFs and LIFs is less than 40% of the Year's Maximum Pensionable Earnings ("YMPE") for the calendar year in which the application is made. (For example, for the year 2005, this amount is 40% of \$41,100 (the YMPE for 2005) = \$16,440.)

The YMPE is a dollar figure established each year in relation to the Canada Pension Plan. A new YMPE is set each year, which means that the amount that may be withdrawn under this provision may vary from one year to another.

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.

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

#### **Applications for Withdrawal of Money from an LRIF for Amounts that Exceed ITA Limits**

In addition to the general provisions for special applications mentioned above, 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-deferred basis when a former member terminates employment and 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 an LRIF, the owner may apply to the financial institution to withdraw the excess amount, plus any interest that has accumulated on that excess amount. It is up to the financial institution that administers the LRIF 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 Revenue Agency ("CRA") that sets out the excess amount that was transferred into the LRIF. The consent of a spouse is not necessary for this type of application.

### **Applications for Withdrawal of Money from an LRIF 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 LRIF. Inquiries for information about applications for financial hardship should be directed to the FSCO call centre at (416) 250-7250 or toll free at 1-800-668-0128, or to the FSCO website at [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca) under "Pensions, Access to Locked-In Accounts". In addition, individuals may write to the Financial Services Commission of Ontario, 5160 Yonge Street, Box 85, North York, Ontario, M2N 6L9.

### **Frequently Asked Questions About the LRIF**

#### **Establishment of the LRIF and General Provisions**

*Q1: When LRIF assets are transferred from one financial institution to another, is the spouse's consent required to establish the new LRIF?*

No. Consent is only required when the LRIF is first purchased.

*Q2: When an annuity is commuted for the purchase of an LRIF, 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 an LRIF, the spouse must consent to the actual purchase of the LRIF. Therefore, if the money which is commuted is used for the purchase of a new LRIF, the consent of the spouse is required.

*Q3: How is the LRIF taxed?*

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

*Q4: Are there any restrictions on how an LRIF may be structured? Can an LRIF be self-directed?*

An LRIF 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 an LRIF. This would include a self-directed LRIF.

*Q5: Are there any investment restrictions with which the LRIF must comply?*

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

### **LRIF Transfers**

*Q6: Is specific wording required to allow a transfer from an RPP to an LRIF?*

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 LRIF. For example, a pension plan registered in Ontario which provides a portability option to an LRIF should contain a statement such as “a RRIF which meets the requirements for an LRIF as set out in the Regulation under the *Pension Benefits Act*, as amended from time to time”. Information on wording acceptable under the ITA should be sought from the CRA.

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

*Q7: What happens when assets in an LRIF or LIF are transferred to another LRIF before any money is paid out to the owner from the transferring LRIF or LIF that year?*

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

### **Annual Income Payments from an LRIF**

*Q8: How does the addition of new locked-in funds to an already existing LRIF affect the maximum annual income payment calculation?*

Any new locked-in funds added to an existing LRIF by a lump sum transfer (e.g., from another LRIF, LIF or LIRA) do not affect the maximum annual income payment calculated for the LRIF as of the start of that fiscal year. As a result, the LRIF owner would not be permitted to take a share of those newly transferred funds as an income payment until the next fiscal year. To maximize the current income payment from both a receiving LRIF and a transferring LRIF or LIF, the owner should take the maximum regular annual income payment from the transferring LRIF or LIF before transferring the amount into the receiving LRIF.

*Q9: If funds from one LRIF (or LIF) are transferred into a separate, already-existing LRIF, is the maximum annual income payment amount for the receiving LRIF reset to \$0, due to the operation of subsection 6(2) of Schedule 2?*

Yes. Subsections 6(2) of Schedule 2 (for the LRIF) and 6(3) of Schedule 1 (for the LIF) are intended to prevent the payment of excessive income amounts from multiple LRIFs or LIFs when LRIF or LIF assets are transferred to brand new LRIFs or LIFs during any one calendar year. The effect of subsection 6(2) is to set the maximum amount payable from a new LRIF at \$0 when the LRIF receives funds from an existing LIF or LRIF. If these provisions did not exist, then an LRIF or LIF owner could transfer assets between multiple old and new LRIFs or LIFs, get the maximum annual payment out of each LRIF or LIF and frustrate the locking-in rules.

*Q10: Is the yearly maximum increased if money is transferred from a LIRA to an existing LRIF during a year?*

No. Schedule 2 provides that the maximum amount for the fiscal year will be calculated based on the value of the assets in the plan at the start of that fiscal year.

*Q11: Where the minimum payment is greater than the maximum payment, which amount should be paid?*

Subsection 6(4) of Schedule 2 provides that the minimum amount must always be paid out of an LRIF each year, regardless of what the maximum may be.

*Q12: Can an LRIF owner be paid the minimum amount and transfer the difference between the minimum and maximum to a RRIF?*

Yes, as long as such transfer complies with the ITA. However, if the owner does so, his or her income payment for that year for the purpose of the LRIF will be considered to be the maximum amount.

*Q13: In calculating the maximum, what is included in the "amounts transferred into the fund since it was established" and the "amounts transferred out of the fund since it was established" in paragraph 6(1)1 of Schedule 2?*

The amounts described in clause 6(1)1 of Schedule 2 include only the lump sum amounts transferred into the LRIF from a LIRA, LIF, another LRIF, annuity or pension plan, and only the lump sum amounts transferred out of the LRIF in accordance with sections 3 and 7 to 10 of Schedule 2. The regular annual income payments (including any carry forward amounts) which are permitted for the year under section 6 of Schedule 2 are not included.

*Q14: When can the LRIF owner begin withdrawing money from his or her LRIF?*

Payments from the LRIF can begin no earlier than the earliest date on which the LRIF owner could have started to receive a pension under any pension plan from which the money in the LRIF originated. This can only be determined by looking at the terms of such plan(s). If the owner believes he or she could have started to receive a pension payment at a date earlier than 55, he or she should find the relevant terms of the plan and bring it to the attention of the financial institution.

### **The LRIF Carry Forward**

*Q15: Does the carry forward amount from any particular year have to be paid out within a certain timeframe?*

No, unused carry forward amounts are carried forward into future years until they are paid out.

*Q16: How should the financial institution report the amount of the carry forward to the LRIF owner?*

At the beginning of each fiscal year, the financial institution must provide certain information to the LRIF owner, including the absolute maximum amount (including any carry forward amount) that can be paid to the owner as an income payment that year. Although not specified in the legislation, it would be good business practice for the financial institution to identify the portion of the absolute maximum income amount payable that is carried forward from previous years.

*Q17: Does the LRIF owner have to apply to be paid a carry forward amount from a previous year?*

No. At the beginning of each fiscal year, the financial institution will provide the LRIF owner with the absolute maximum amount (including any carry forward amount) that can be paid to the owner as an income payment that year. The owner simply chooses to be paid an amount up to the maximum, and if the owner chooses to be paid an amount less than the maximum, this unused amount becomes the carry forward amount for the next fiscal year.

*Q18: What happens to the unused carry forward income payment amount in an LRIF when all or part of the LRIF assets are transferred to a second LRIF?*

The unused carry forward income payment amount in the transferring LRIF cannot be applied to the receiving LRIF. Where all of the assets in one LRIF are transferred to a second LRIF, any unused carry forward amount in the transferring LRIF will be lost if it is not used before the assets are transferred to the receiving LRIF.

*Q19: When does the financial institution begin counting the carry forward, in the first or second year of the LRIF?*

In the second year, when the unused annual income payment account from the first year can be determined.

### **Breakdown of Marriage or Relationship**

*Q20: What rights does a spouse have when a marriage or relationship ends?*

A former spouse may be entitled to make a claim against assets in an LRIF 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 Ontario *Family Law Act* is provided to the financial institution administering the LRIF. In addition, assets transferred to the former spouse due to the breakdown must continue to be locked-in.

### **Survivor provisions**

*Q21: Can an LRIF owner's spouse waive his or her survivor entitlement and have another beneficiary named by the LRIF owner be paid the death benefit?*

No. Under the terms of the current Regulation, the spouse of the LRIF owner cannot waive his or her right to death benefits.

*Q22: On the death of an LRIF owner, can a surviving spouse "step into the owner's shoes" and continue the LRIF in the surviving spouse's name?*

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

### **Miscellaneous**

*Q23: Where the assets in an LRIF 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 LRIF 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.

*Q24: Can an LRIF owner contribute non-locked-in money to their LRIF?*

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

*Q25: Can the owner of an Ontario LRIF combine it with an LRIF governed by the pension laws of the federal government or another province?*

No. The pension laws of each jurisdiction govern each LRIF separately and LRIFs governed by different jurisdictions may not be combined.

**APPENDIX: EXAMPLES FOR THE CALCULATION OF THE  
MAXIMUM ANNUAL INCOME PAYMENT AMOUNT**

**Example 1:**

The following example demonstrates how the maximum income payment amount is calculated in the first three fiscal years of a hypothetical LRIF that was purchased with money transferred from a LIRA.

This example assumes that \$100,000 was transferred from a LIRA to an LRIF on July 23, 2005, the date on which the LRIF is established, and that the owner is age 55 as of January 1, 2005.

*1<sup>st</sup> Fiscal Year: July 23 to December 31, 2005*

The minimum 2005 required income payment under the ITA rules is \$0.

The maximum 2005 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$100,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payment amounts (\$0)]:  
 $\$100,000 - [\$100,000 - \$0] = \$0$ .
2. The investment earnings in the immediately previous fiscal year of the LRIF, including any unrealized capital gains or losses: \$0 (there being no previous fiscal year of the LRIF as of yet).
3. 6% of the value of the LRIF at the beginning of the first fiscal year (\$100,000), pro-rated for the less than 12-month fiscal year:  $6\% \times \$100,000 \times 6/12 = \$3,000$ .

Therefore, in the first fiscal year (July 23 to December 31, 2005), the owner may choose to be paid no income from the LRIF, a maximum regular income amount of \$3,000, or any amount in between \$0 and \$3,000.

We will assume that the owner chooses to be paid \$1,000 from the LRIF in the year 2005, and that the LRIF balance is \$101,000 on December 31, 2005 and January 1, 2006.

With an income payment of \$1,000 in 2005 and an LRIF balance of \$101,000 on December 31, 2005, this means that the LRIF had investment earnings of \$2,000 in the 2005 fiscal year (i.e., the LRIF balance on December 31, 2005 (\$101,000), minus the LRIF balance at the start of the 2005 fiscal year on July 23, 2005 (\$100,000), plus the value of any payments and transfers out of the LRIF in 2005 (\$1,000), minus the value of any additional money added to the LRIF in 2005 (\$0) =  $\$101,000 - \$100,000 + \$1,000 - \$0 = \$2,000$ ).

*2<sup>nd</sup> Fiscal Year: January 1 - December 31, 2006*

The owner is age 56 on January 1, 2006, and we will assume that the owner elects to be paid out the maximum regular income amount calculated for 2006, as well as one-half of any allowable carry forward amount.

The minimum 2006 required income payment under the ITA rules is \$101,000 divided by 34 (90-56) = \$2,970.58.

The maximum 2006 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$101,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payments (\$0)]:  
 $\$101,000 - [\$100,000 - \$0] = \$1,000$ .
2. The previous fiscal year's investment earnings: \$2,000 (as calculated above).
3. 6% of the value of the LRIF at the beginning of the second fiscal year:  $6\% \times \$101,000 = \$6,060$ .

Therefore, in 2006, the owner must be paid income of at least \$2,970.58 and can be paid a maximum regular income amount of \$6,060.

In addition to the regular income payment maximum of \$6,060, the owner may also elect to be paid up to \$2,000 in unused maximum income payment amounts carried forward from previous fiscal years (the \$2,000 in this case representing the amount carried forward from 2005: \$3,000 maximum regular income payment amount for 2005 minus \$1,000 actual income payment made in 2005).

We will assume that the owner chooses to be paid \$7,060 from the LRIF in 2006, and that the LRIF balance is \$95,000 on December 31, 2006 and January 1, 2007.

With an income payment of \$7,060 in 2006 and an LRIF balance of \$95,000 on December 31, 2006, this means that the LRIF had investment earnings of \$1,060 in the 2006 fiscal year (i.e., the LRIF balance on December 31, 2006 (\$95,000), minus the LRIF balance at the start of the 2006 fiscal year on January 1, 2006 (\$101,000), plus the value of any payments and transfers out of the LRIF in 2006 (\$7,060), minus the value of any additional money added to the LRIF in 2006 (\$0) =  $\$95,000 - \$101,000 + \$7,060 - \$0 = \$1,060$ ).

3<sup>rd</sup> Fiscal Year: January 1 - December 31, 2007

The owner is age 57 on January 1, 2007.

The minimum 2007 required income payment under the ITA rules is \$95,000 divided by 33 (90-57) = \$2,878.79.

The maximum 2007 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$95,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payment amounts (\$0)]:  
 $\$95,000 - [\$100,000 - \$0] = -\$5,000$ .
2. The previous fiscal year's investment earnings: \$1,060 (as calculated above).

Therefore, in 2007, the owner must be paid income of at least \$2,878.79 and the maximum regular income payment is calculated as \$1,060. Because the calculated maximum regular income payment amount (\$1,060) for 2007 is less than the minimum required income payment amount, the owner must be paid the minimum income amount of \$2,878.79 in 2007.

In addition to the minimum income payment amount of \$2,878.79, the owner may also elect to be paid up to \$1,000 in unused maximum income payment amounts carried forward from previous fiscal years (the \$1,000 in this case representing the amount carried forward from the 2005 fiscal year that was still unused at the start of the 2007 fiscal year).

**Example 2:**

The following example demonstrates how the maximum income payment amount is calculated when an LRIF is established using funds from a LIF or another LRIF.

This example assumes that an LRIF was purchased with \$100,000 from a LIF on July 23, 2005, using all of the assets of the LIF, and that the owner is age 55 as of January 1, 2005.

1<sup>st</sup> Fiscal Year: July 23 to December 31, 2005

The minimum 2005 required income payment from the LRIF under the ITA rules is \$0. (Note that the ITA would have required a minimum payment out of the LIF during the LIF's 2005 fiscal year.)

Because the money transferred into the LRIF during the LRIF's first fiscal year came from a LIF or LRIF, the maximum 2005 income payment from the LRIF is \$0.

Therefore, in the first fiscal year (July 23 to December 31, 2005), no income payment made be made from the LRIF (although withdrawals of amounts related to special applications to withdraw money from the LRIF, such as for financial hardship, would be permitted).

We will assume that the LRIF balance is \$101,000 on December 31, 2005 and January 1, 2006.

With an income payment of \$0 in 2005 and an LRIF balance of \$101,000 on December 31, 2005, this means that the LRIF had investment earnings of \$1,000 in the 2005 fiscal year (i.e., the LRIF balance on December 31, 2005 (\$101,000), minus the LRIF balance at the start of the 2005 fiscal year on July 23, 2005 (\$100,000), plus the value of any payments and transfers out of the LRIF in 2005 (\$0), minus the value of any additional money added to the LRIF in 2005 (\$0) = \$101,000 - \$100,000 + \$0 - \$0 = \$1,000). We will also assume that the LIF had investment earnings of \$1,000 during the LIF's 2005 fiscal year (from January 1 to July 23, 2005).

2<sup>nd</sup> Fiscal Year: January 1 - December 31, 2006

The owner is age 56 on January 1, 2006, and we will assume that the owner elects to be paid out the maximum regular income amount calculated for 2006, as well as any allowable carry forward amount.

The minimum 2006 required income payment under the ITA rules is \$101,000 divided by 34 (90-56) = \$2,970.58.

The maximum 2006 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$101,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payment amounts (\$0)]:  
 $\$101,000 - [\$100,000 - \$0] = \$1,000$ .
2. The investment earnings in the immediately previous fiscal year of the LRIF, including any unrealized capital gains or losses: \$1,000 (as calculated above).
3. 6% of the value of the LRIF at the beginning of the second fiscal year:  $6\% \times \$101,000 = \$6,060$ .
4. The investment earnings in the immediately previous fiscal year of **both the LRIF and the LIF**, including any unrealized capital gains or losses: \$1,000 (LRIF in 2005) + \$1,000 (LIF in 2005) = \$2,000.

Therefore, in 2006, the owner must be paid income of at least \$2,970.58 and can be paid a maximum regular income amount of \$6,060.



There is no unused maximum income payment amount carried forward from any previous fiscal year of the LRIF that the owner can elect to be paid in 2006.

We will assume that the owner chooses to be paid out \$6,060 from the LRIF in 2006, and that the LRIF balance is \$104,000 on December 31, 2006 and January 1, 2007.

With an income payment of \$6,060 in 2006 and an LRIF balance of \$104,000 on December 31, 2006, this means that the LRIF had investment earnings of \$9,060 in the 2006 fiscal year (i.e., the LRIF balance on December 31, 2006 (\$104,000), minus the LRIF balance at the start of the 2006 fiscal year on January 1, 2006 (\$101,000), plus the value of any payments and transfers out of the LRIF in 2006 (\$6,060), minus the value of any additional money added to the LRIF in 2006 (\$0) =  $\$104,000 - \$101,000 + \$6,060 - \$0 = \$9,060$ ).

3<sup>rd</sup> Fiscal Year: January 1 - December 31, 2007

The owner is age 57 on January 1, 2007.

The minimum 2007 required income payment under the ITA rules is \$104,000 divided by 33 (90-57) = \$3,151.51.

The maximum 2007 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$104,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payment amounts (\$0)]:  $\$104,000 - [\$100,000 - \$0] = \$4,000$ .
2. The previous fiscal year's investment earnings: \$9,060 (as calculated above).

Therefore, in 2007, the owner must be paid income of at least \$3,151.51 and can be paid a maximum regular income amount of \$9,060.

There is no unused maximum income payment amount carried forward from any previous fiscal year of the LRIF that the owner can elect to be paid in 2007.

**Example 3:**

The following example demonstrates how the maximum income payment amount is calculated in the first three fiscal years of a hypothetical LRIF where the owner has a carry forward amount from the first fiscal year and makes a financial hardship withdrawal in the second fiscal year.

This example assumes that \$100,000 was transferred from a LIRA to an LRIF on July 23, 2005, the date on which the LRIF is established, and that the owner is age 55 as of January 1, 2005.

1<sup>st</sup> Fiscal Year: July 23 to December 31, 2005

The minimum 2005 required income payment under the ITA rules is \$0.

The maximum 2005 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$100,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payment amounts (\$0)]:  
 $\$100,000 - [\$100,000 - \$0] = \$0$ .
2. The investment earnings in the immediately previous fiscal year of the LRIF, including any unrealized capital gains or losses: \$0 (there being no previous fiscal year of the LRIF as of yet).
3. 6% of the value of the LRIF at the beginning of the first fiscal year (\$100,000), pro-rated for the less than 12-month fiscal year:  $6\% \times \$100,000 \times 6/12 = \$3,000$ .

Therefore, in the first fiscal year (July 23 to December 31, 2005), the owner may choose to be paid no income from the LRIF, and can be paid a maximum regular income amount of \$3,000.

We will assume that the owner chooses to be paid out \$1,000 from the LRIF in the year 2005, and that the LRIF balance is \$101,000 on December 31, 2005 and January 1, 2006.

With an income payment of \$1,000 in 2005 and an LRIF balance of \$101,000 on December 31, 2005, this means that the LRIF had investment earnings of \$2,000 in the 2005 fiscal year (i.e., the LRIF balance on December 31, 2005 (\$101,000), minus the LRIF balance at the start of 2005 fiscal year on July 23, 2005 (\$100,000), plus the value of any payments and transfers out of the LRIF in 2005 (\$1,000), minus the value of any additional money added to the LRIF in 2005 (\$0) =  $\$101,000 - \$100,000 + \$1,000 - \$0 = \$2,000$ ).

2<sup>nd</sup> Fiscal Year: January 1 - December 31, 2006

The owner is age 56 on January 1, 2006, and we will assume that the owner elects to be paid out the maximum regular income amount calculated for 2006, as well as one-half of any allowable carry forward amount.

The minimum 2006 required income payment under the ITA rules is \$101,000 divided by 34 (90-56) = \$2,970.58.

The maximum 2006 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$101,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payments (\$0)]:  
 $\$101,000 - [\$100,000 - \$0] = \$1,000$ .
2. The previous fiscal year's investment earnings: \$2,000 (as calculated above).
3. 6% of the value of the LRIF at the beginning of the second fiscal year:  $6\% \times \$101,000 = \$6,060$ .

Therefore, in 2006, the owner must be paid income of at least \$2,970.58 and can be paid a maximum regular income amount of \$6,060.

In addition to the regular income payment maximum of \$6,060, the owner may also elect to be paid up to \$2,000 in unused maximum income payment amounts carried forward from previous fiscal years (the \$2,000 in this case representing the amount carried forward from 2005: \$3,000 maximum regular income payment amount for 2005 minus \$1,000 actual income payment made in 2005).

We will assume that the owner chooses to be paid \$7,060 from the LRIF in 2006.

In addition, we will assume that in March 2006, the owner applies for and receives consent from the Superintendent of Financial Services to withdraw \$11,000 from the LRIF due to financial hardship. While the owner has up to one year to use the hardship consent, we will assume that he or she uses it right away and withdraws \$11,000 from the LRIF in April 2006.

This \$11,000 financial hardship withdrawal **does not** affect the income payment for 2006 chosen by the owner above - the owner gets both the income payment amount chosen (\$7,060) and the financial hardship withdrawal (\$11,000). Nor does this \$11,000 withdrawal affect the carry forward calculation for any year.

We will assume that the LRIF balance is \$84,000 on December 31, 2006 and January 1, 2007.

With an income payment of \$7,060 and a financial hardship withdrawal of \$11,000 in 2006, and an LRIF balance of \$84,000 on December 31, 2006, this means that the LRIF had investment earnings of \$1,060 in the 2006 fiscal year (i.e., the LRIF balance on December 31, 2006 (\$84,000), minus the LRIF balance at the start of the 2006 fiscal year on January 1, 2006 (\$101,000), plus the value of any payments and transfers out of the LRIF in 2006 (\$7,060 + \$11,000 = \$18,060), minus the value of any additional money added to the LRIF in 2006 (\$0) = \$84,000 - \$101,000 + \$18,060 - \$0 = \$1,060).

3<sup>rd</sup> Fiscal Year: January 1 - December 31, 2007

The owner is age 57 on January 1, 2007.

The minimum 2007 required income payment under the ITA rules is \$84,000 divided by 33 (90-57) = \$2,545.45.

The maximum 2007 regular income payment amount is the greatest of:

1. The value of the LRIF at the beginning of the fiscal year (\$84,000) minus [the amount equal to the sum of all amounts transferred into the LRIF since it was established (\$100,000) minus the sum of all amounts transferred out of the LRIF since it was established, not including any annual income payment amounts (\$11,000)]:  
 $\$84,000 - [\$100,000 - \$11,000] = -\$5,000$ .
2. The previous fiscal year's investment earnings: \$1,060 (as calculated above).

Therefore, in 2007, the owner must be paid income of at least \$2,545.45 and the maximum regular income payment is calculated as \$1,060. Because the calculated maximum regular income payment amount (\$1,060) for 2007 is less than the minimum required income payment amount, the owner must be paid the minimum income amount of \$2,545.45 in 2007.

In addition to the minimum income payment amount of \$2,545.45, the owner may also elect to be paid up to \$1,000 in unused maximum income payment amounts carried forward from previous fiscal years (the \$1,000 in this case representing the amount carried forward from the 2005 fiscal year that was still unused at the start of the 2007 fiscal year).