

Addendum

Addendum for Nova Scotia LIF

This Addendum sets out further provisions that apply to LIFs which are subject to the *Pension Benefits Act* of the province of Nova Scotia (the "Act").

This Addendum forms a part of the main LIF Agreement to which it is attached. In the case of any inconsistency between the main LIF Agreement and this Addendum, this Addendum shall prevail in all cases.

1. Definitions

All of the definitions regarding life income funds set out in the applicable pension legislation are incorporated in this LIF Agreement.

2. Schedule 4 of *Pension Benefits Regulations* (Nova Scotia)

In accordance with the requirements of the *Pensions Benefits Regulations* (the "Regulations") Schedule 4 is included below as part of this LIF Agreement.

3. Annual Information

We will provide the information described in Section 14 of Schedule 4 (set out below), to the persons indicated in that Section.

4. Reliance on Information

We are entitled to rely upon the information provided by you in an application to purchase a LIF and in an application to withdraw or transfer money from your LIF, as prescribed by the Regulations.

5. Withdrawals and Transfers

When applying to transfer excess amounts or to withdraw funds due non-residency, shortened life expectancy, or a small balance, the application that meets the requirements

of the Act and the Regulations constitutes authorization to us to make the payment or transfer from the LIF in accordance with the Act and the Regulations. We are required to make the payment to which you are entitled no later than 30 days after we receive the completed application and accompanying documents.

Additionally, for a small balance withdrawal, the value of all of the assets in all LIRAs and LIFs owned by you on the date you sign an application to withdraw or transfer funds at age 65 must be determined using the most recent statement about each LIRA or LIF given to you dated no earlier than 1 year before you sign the application.

6. Amendments

From time to time we may amend this LIF Agreement upon 90 days written notice.

We will not amend this LIF Agreement if the amendment would result in a reduction of your rights under it unless: (a) we are required by law to make the amendment, or (b) we allow you to transfer all or part of the assets of the LIF under the terms of the LIF as they exist before the amendment is made. In either case, we will give you notice in writing of the amendment and the nature of the amendment and allow you at least 90 days after the notice is given to transfer all or part of the assets in your LIF.

7. Address of Scotiastrust

The mailing address of Scotiastrust is as follows:
Scotiastrust
44 King Street West
Toronto, Ontario M5H 1H1

**Schedule 4 - Nova Scotia LIF Addendum
(*Pension Benefits Regulations*)**

Note: This document is Schedule 4 to the *Pension Benefits Regulations* (Nova Scotia). It forms part of the regulations and must be read, construed and interpreted in conjunction with the *Pension Benefits Act* and its regulations.

Definitions for this Schedule

1. In this Schedule,
- "Act" means the *Pension Benefits Act*;
- "domestic contract", as defined in Section 2 of the regulations, means a written agreement referred to in, and for the purpose of Section 74 of the Act that provides for a division between spouses of any pension benefit, deferred pension or pension and includes a marriage contract as defined in the *Matrimonial Property Act*;
- "federal *Income Tax Act*," as defined in Section 2 of the regulations, means the *Income Tax Act*, (Canada) and and, unless specified otherwise, includes the regulations made under that Act;
- "owner " means any of the following persons, as set out in subsection 205(2) of the regulations, who has purchased a LIF:

- (i) a former member who is entitled to make a transfer under clause 61(1)(b) of the Act,
- (ii) a spouse of a person who was a member, and who is entitled to make a transfer under clause 61(1)(b) of the Act,
- (iii) a person who has previously transferred an amount under clause 61(1)(b) of the Act into a LIRA or LIF,
- (iv) a person who has previously transferred an amount into a LIF as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act,
- (v) a spouse who is entitled to transfer a lump sum as a result of a division of any pension benefit, deferred pension or pension under Section 74 of the Act;

"regulations", means the *Pension Benefits Regulations* made under the Act;

"spouse", as defined in the Act, means either of 2 persons who

- (ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,
 - (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or, if they have ceased to cohabit, have cohabited within the 12-month period immediately preceding the date of entitlement, and
 - (iv) are domestic partners within the meaning of Section 52 of the *Vital Statistics Act*, or
 - (v) not being married to each other, are cohabiting in a conjugal relationship with each other, and have done so continuously for at least
- (A)** 3 years, if either of them is married, or
- (B)** 1 year, if neither of them is married;

"temporary income" means income payments from a LIF that, in accordance with Section 9 of this Schedule, are paid to an owner before they turn 65 years old;

"Superintendent" means the Superintendent of Pensions, as defined in the Act.

Fiscal year of LIFs

2. **(1)** In this Schedule, "fiscal year" means the fiscal year of a LIF.
- (2)** A fiscal year must end on December 31 and must not be longer than 12 months.

Reference rate criteria

3. A reference rate in this Schedule for a fiscal year must meet all of the following criteria:
- (a)** it must be based on the month-end nominal rate of interest earned on long-term bonds issued by the Government of Canada for November of the year immediately before the beginning of the fiscal year, as compiled by Statistics Canada and published in the Bank of Canada Review as CANSIM Series V122487, with the following adjustments applied successively to that nominal rate:
 - (i) an increase of 0.5%,
 - (ii) the conversion of the increased rate, based on interest compounded semi-annually, to an effective annual rate of interest,
 - (iii) the rounding of the effective interest rate to the nearest multiple of 0.5%;
 - (b)** it must not be less than 6%.

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Note Re Requirements of the *Pension Benefits Act* and *Regulations*

Prohibitions on transactions from Section 91 of Act

Under Section 91 of the Act, money held in a LIF must not be commuted or surrendered in whole or in part except as permitted by this Schedule and the regulations including, without limiting the generality of the foregoing, the following Sections of the regulations:

- Sections 211 through 230, respecting withdrawal in circumstances of financial hardship
- Section 231, respecting withdrawal in circumstances of considerably shortened life expectancy
- Section 232, respecting withdrawal in circumstances of non-residency
- Section 233, respecting withdrawal of small amounts at age 65
- Section 198, respecting the transfer of an excess amount, as defined in that Section.

Pursuant to subsection 91(2) of the Act, any transaction that contravenes Section 91 of the Act is void.

Values of assets in LIFs subject to division

The value of the assets in a LIF is subject to division in accordance with all of the following:

- an order of the Supreme Court of Nova Scotia that provides for the division of any pension benefits under Section 74 of the Act
- a domestic contract that provides for the division of any pension benefit, deferred pension or pension under Section 74 of the Act
- the regulations.

Money held in LIFs

The following requirements are set out in the *Pension Benefits Act* and are applicable to LIFs governed by this Schedule:

- Money held in a LIF must not be assigned, charged, or given as security except as permitted by subsection 88 (3) of the Act or Section 90 of the Act, and any transaction purporting to assign, charge, anticipate or give the money in the LIF as security is void.
- Money held in a LIF is exempt from execution, seizure or attachment except for the purpose of enforcing a maintenance order as permitted by Section 90 of the Act.

Periodic payments of income out of LIFs

4. (1) An owner must be paid an income from their LIF, the amount of which may vary, annually.
- (2) Income payments from a LIF must begin no earlier than
- (a) the earliest date that the owner would have been entitled to receive a pension under any pension plan from which the money was transferred; or
 - (b) if all of the money in a LIF is derived from sources other than a pension benefit provided in respect of any employment of the owner, the date the owner turns 55 years old.
- (3) Income payments from a LIF must begin no later than the end of a LIF's 2nd fiscal year.

Amount of income payments from LIFs

5. (1) Subject to the minimum amount in Section 6 of this Schedule, an owner of a LIF must establish the amount of income to be paid during each fiscal year at the beginning of the fiscal year and after they have received the information required by Section 14 of this Schedule.
- (2) Except as provided in subsection (5), an owner of a LIF must notify the financial institution providing the LIF of the amount to be paid out of the LIF each year and any owner who does not do so is deemed to have selected the minimum amount determined under Section 6 of this Schedule.

- (3) The owner's notice required by subsection (2) be must given either
- (a) except as provided in subsection (5), at the beginning of the fiscal year;
 - (b) at a time agreed to by the financial institution providing the LIF.
- (4) The owner's notice required by subsection (2) expires at the end of the fiscal year to which it relates.
- (5) If a financial institution providing a LIF guarantees the rate of return of the LIF over a period that is greater than 1 year, the period must end at the end of a fiscal year and the owner may establish the amount of income to be paid during the period at the beginning of the period.

Minimum annual LIF withdrawal

6. (1) The amount of income that is paid out of a LIF during a fiscal year must not be less than the minimum amount prescribed for a registered retirement income fund by the federal *Income Tax Act*, determined on the basis of the owner's age or or the age of the owner's spouse if the spouse is younger than the owner.
- (2) Despite Sections 7, 8, 10, 11 and 12 of this Schedule, if the minimum amount specified by subsection (1) is greater than the maximum amount determined under those Sections for a fiscal year, then the minimum amount under subsection (1) must be paid out of the LIF during the fiscal year.

Pro-rating amount of withdrawal if initial fiscal year less than 12 months

7. If the initial fiscal year is less than 12 months long, the maximum amount determined under Sections 8, 10, 11 and 12 of this Schedule must be adjusted in proportion to the number of months in that fiscal year divided by 12, with any part of an incomplete month counting as 1 month.

Maximum annual life income from LIF that does not provide for temporary income

8. The maximum annual amount of life income to be paid each year from a LIF from which no temporary income is paid is determined by the following formula:
- maximum payable = F x B
- in which
- F = is the factor in Schedule 5: Life Income Fund—Factor F that corresponds to the reference rate for the fiscal year and the owner's age at the end of the previous year
- B = the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF, to the LIF, in the same year.

Withdrawal of temporary income from LIFs

9. (1) A LIF may provide that the owner is entitled to temporary income in accordance with this Section and Sections 10 and 11 of this Schedule.
- (2) An owner of a LIF from which temporary income may be paid who is at least 54 years old but under 65 years old at the end of the calendar year before the date they apply, may apply in an approved form to the financial institution that provides a LIF for payment of temporary income from the LIF.
- (3) Temporary income must not be paid under a LIF
- (a) before the owner is 55 years old; and
 - (b) after the end of the year in which the owner turns 65 years old.
- (4) Temporary income is not payable if any portion of a payment out of a LIF is transferred to an registered retirement savings plan or a registered retirement income fund.

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Maximum temporary income for fiscal year

10. (1) Except as provided in subsection (2), the maximum temporary income that may be paid during a fiscal year out of a LIF from which temporary income may be paid must be the lesser of the following amounts:
- (a) the amount calculated by the following formula:
- $(50\% \text{ of the YMPE}) - T$
- in which
- YMPE = the Year's Maximum Pensionable Earnings for the fiscal year
- T = the total of temporary income for the owner from a pension plan or from other LIFs of the owner for that fiscal year;
- (b) the amount calculated by the following formula:
- $F \times B \times D$
- in which
- F = is the factor in Schedule 5: Life Income Fund—Factor F that corresponds to the reference rate for the fiscal year and the owner's age at the end of the previous year
- B = the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF, to the LIF, in the same year
- D = the factor in Schedule 6: Life Income Fund—Temporary Income Factor D that corresponds to the owner's age at the end of the previous fiscal year.
- (2) If the amount determined under clause (1)(b) is less than 50% of the Year's Maximum Pensionable Earnings, then the maximum temporary income paid out of a LIF during a fiscal year must be the lesser of the following amounts:
- (a) the amount calculated under clause (1)(a);
- (b) the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF to the LIF in the same year.

Maximum life income withdrawal from LIFs

11. The maximum life income to be paid from a LIF from which a temporary income is paid is determined by the following formula, provided that the maximum must not be less than zero:
- $\text{maximum payable} = (F \times B) - (Y \div D)$
- in which
- F = the factor in Schedule 5: Life Income Fund—Factor F that corresponds to the reference rate for the fiscal year and the owner's age at the end of the previous year
- B = the balance of the LIF at the beginning of the fiscal year, increased by any money transferred to the LIF after the beginning of that fiscal year and reduced by any money transferred from another LIF, to the LIF, in the same year
- Y = the maximum annual temporary income determined under Section 10 of this Schedule
- D = the factor in Schedule 6: Life Income Fund—Temporary Income Factor D that corresponds to the owner's age at the end of the previous year.

Maximum annual income payable if financial institution guarantees rate of return of LIFs

12. (1) If a financial institution that provides a LIF guarantees the rate of return of the LIF over a period greater than 1 year and the owner establishes the amount of income to be paid during that period, the maximum income that may be paid during each of the fiscal years during the period must be determined at the beginning of each fiscal year in the period in accordance with this Section.
- (2) For each year after the initial fiscal year, the maximum income to be paid for the fiscal year under a LIF described in subsection (1) is equal to the lesser of the following amounts:
- (a) the balance of the LIF at the time of payment in that year;
- (b) the amount determined by the following formula:
- $\text{maximum income} = (I \times B) \div RB$
- in which
- I = the maximum income determined for the initial fiscal year under Section 11 of this Schedule
- B = the balance of the LIF at the beginning of the fiscal year
- RB = the reference balance determined at January 1 of the year as calculated under subsection (3).
- (3) For the formula in clause (2)(b), the reference balance ("RB") must be calculated by the following formula:
- $RB = (PRB - I) + ((PRB - I) \times RR/100)$
- in which
- PRB = the reference balance
- (i) at the beginning of the previous year, or
- (ii) for the 2nd year of the period, the LIF balance at the beginning of the 1st year of the period
- I = the maximum income determined for the initial fiscal year
- RR = the reference rate for the year, if the fiscal year is one of the first 16 fiscal years of the LIF, or by 6% for any other year.

Income in excess of maximum

13. (1) If income paid to an owner under a LIF during a fiscal year exceeds the maximum that may be paid, the balance of the LIF must not be reduced by the excess unless the payment is attributable to incorrect information provided by the owner.

Information to be provided annually by financial institution

14. At the beginning of each fiscal year, a financial institution providing a LIF must provide all of the following information to an owner about their LIF:
- (a) with respect to the previous fiscal year:
- (i) the sums deposited,
- (ii) any accumulated investment earnings including any unrealized capital gains or losses,
- (iii) the payments made out of the LIF,
- (iv) any withdrawals from the LIF made under the following circumstances, in accordance with Sections 211 to 230 of the regulations:
- (A) a mortgage default circumstance, as defined in clause 212(1)(a) of the regulations,
- (B) a medical expense circumstance, as defined in clause 212(1)(b) of the regulations,
- (C) a rental default circumstance, as defined in clause 212(1)(c) of the regulations,

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- (D) a reduced income circumstance, as defined in clause 212(1)(d) of the regulations,
- (v) any transfers made out of the LIF,
- (vi) the fees charged against the LIF;
- (b) the value of the assets in the LIF at the beginning of the fiscal year;
- (c) the minimum amount that must be paid out as income to the owner during the current fiscal year;
- (d) the maximum amount that may be paid out as income to the owner during the current fiscal year;
- (e) for a LIF that provides for temporary income, and the owner was at least 54 years old but under 65 years old at the end of the previous year,
 - (i) how the owner may apply for temporary income to be paid to them after they turn 55 years old, and
 - (ii) a statement that payment of temporary income will reduce the income that would otherwise be paid to the owner after age 65;
- (f) a statement that the maximum amount of income that may be paid to the owner during the fiscal year will not be increased if assets held in another LIF during the year are transferred to the LIF;
- (g) if the beginning of the fiscal year is later than the beginning of the calendar year, a statement as to whether any sums deposited were held in another LIF during the year, and the amount of those deposits;
- (h) a statement that if the owner wishes to transfer the balance of the LIF, in whole or in part, and still receive the income determined for the fiscal year from the LIF, then an amount must be retained in the LIF that is at least equal to the difference between the income determined for the fiscal year and the income already received from the LIF since the beginning of the fiscal year;
- (i) a statement that if the owner dies before the balance in the LIF is used to purchase a life annuity contract or is transferred under Section 15 of this Schedule, then the financial institution must provide the owner's spouse or beneficiary or the personal representative of their estate with the information in clauses (a) and (b), determined as of the date the owner died;
- (j) a statement that if the balance of the LIF is transferred to another financial institution or used to purchase a life annuity, then the financial institution must provide the owner the information in clauses (a) and (b), determined as of the date of the transfer or annuity purchase;
- (k) a statement that if the balance of the LIF is transferred to another financial institution or used to purchase a life annuity, then the financial institution must comply with Section 209 of the regulations, in accordance with subsection 15(6) of this Schedule.

Transferring assets from LIFs

15. (1) An owner of a LIF may transfer all or part of the assets in the LIF as follows:
- (a) to either of the following:
 - (i) another LIF,
 - (ii) a LIRA held by another financial institution, if permitted under the federal *Income Tax Act*;
 - (b) to purchase an immediate life annuity; or
 - (c) for an owner who is a member or former member of a pension plan that provides for variable pension benefits, to the owner's variable benefits account in accordance with Section 150 of the regulations, if the transfer is permitted by the plan.

- (2) The date of a transfer under subsection (1) must not be later than 30 days after the owner requests it, unless any of the following apply:
 - (a) the financial institution providing the LIRA does not have all the information necessary to complete the transaction, in which case the 30-day period begins to run from the date the financial institution has all the necessary information;
 - (b) the transfer is in respect of assets held as securities whose term of investment extends beyond the 30-day period, in which case the 30-day period begins to run from the date the term of investment expires.
- (3) If assets in a LIF consist of identifiable and transferable securities, the financial institution providing the LIF may transfer the securities with the consent of the owner.
- (4) If assets held in a LIF are transferred to another LIF at any time in the current fiscal year, the maximum amount of income that may be paid to the owner of the LIF must not be increased.
- (5) A financial institution providing a LIF must advise the financial institution to which the assets of the LIF are transferred
 - (a) that the assets were held in a LIF in the current year; and
 - (b) whether the assets were determined in a manner that differentiated on the basis of sex.
- (6) If the balance of a LIF is transferred to another financial institution or used to purchase a life annuity, the financial institution providing the LIF must comply with Section 209 of the regulations.

Information to be provided by financial institution on transfer of balance of LIFs

16. If the balance of the LIF is transferred to another financial institution or used to purchase a life annuity, the financial institution making the transfer must provide the owner with all of the information required to be provided annually under clauses 14 (a) to (h) of this Schedule, determined as of the date of the transfer or annuity purchase.

Information to be provided upon transfer of additional amounts to LIFs

17. No later than 30 days after the date that money in locked-in funds that has not been held in a LIF at any time in the current year is transferred to a LIF, the financial institution providing the LIF must provide the owner with all of the following information:
- (a) the information required to be provided annually under clauses 14(a) to (f) of this Schedule, determined as of the date of the transfer;
 - (b) the balance of the LIF used to determine the maximum amount that may be paid to the owner as income during the fiscal year.

Death benefits

18. (1) If the owner of a LIF dies, the following are entitled to receive a benefit equal to the value of the assets in the LIF, subject to subsections (4) and (5):
- (a) the owner's spouse;
 - (b) if there is no spouse or if the spouse is otherwise disentitled under subsection (4) or (5), the owner's named beneficiary;
 - (c) if there is no named beneficiary, the personal representative of the owner's estate.
- (2) For the purposes of subsection (1), a determination as to whether an owner of a LIF has a spouse must be made as of the date the owner dies.
- (3) For the purposes of subsection (1), the value of the assets in a LIF includes all accumulated investment earnings, including any unrealized capital gains and losses, of the LIF from the date of death until the date of payment.

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- (4) A spouse is not entitled to receive the value of the assets in the LIF under clause (1)(a) if the owner of the LIF was not a member or former member of a pension plan from which the assets were transferred, directly or indirectly, to purchase the LIF.
- (5) A spouse who is living separate and apart from the owner of a LIF without a reasonable prospect of resuming cohabitation on the date the owner dies is not entitled to receive the value of the assets in the LIF under clause (1)(a) if any of the following conditions apply:
 - (a) the spouse delivered a written waiver to the financial institution in accordance with Section 19 of this Schedule;
 - (b) the spouse is not entitled to receive any amount in respect of the assets in the LIF in accordance with the terms of a domestic contract that provides for the division of any pension benefit, deferred pension or pension under Section 74 of the Act;
 - (c) the spouse is not entitled to receive any amount in respect of the assets in the LIF, by court order, in accordance with a court order respecting a division of a pension benefit, deferred pension or pension under Section 74 of the Act.
- (6) The benefit described in subsection (1) may be transferred to an RRSP or a RRIF in accordance with the federal *Income Tax Act*.

Waiver of entitlement to death benefits by spouse

- 19. (1) A spouse of an owner of a LIF may waive their entitlement to receive a benefit described in Section 18 of this Schedule from the LIF, by delivering, any time before the death of the owner, a written waiver in an approved form to the financial institution providing the LIF.
- (2) A spouse who delivers a waiver under subsection (1) may cancel it by delivering a written and signed notice of cancellation to the financial institution before the date the owner of the LIF dies.

Information to be provided by financial institution on death of owner

- 20. If the owner of a LIF dies before the balance in the LIF is transferred or used to purchase a life annuity contract, the financial institution providing the LIF must give the information required to be provided annually under clauses 14(a) to (g) of this Schedule, determined as of the date of the owner's death, to any person entitled to receive the assets in the LIF under subsection 18(1) of this Schedule.