Alberta Government

Interpretive Guideline #17

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Locked-In Retirement Accounts (LIRAs)

This guideline is designed to explain the characteristics and requirements of Locked-in Retirement Accounts (LIRAs) as required by the provisions of the *Employment Pension Plans Act* (Act) and the *Employment Pension Plans Regulation* (Regulation). This guideline summarizes the legislative requirements that apply to the subject matter, and includes (as applicable) additional details to outline the Superintendent of Pensions (the Superintendent) expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

What is a LIRA

A LIRA is a Registered Retirement Savings Plan (RRSP) that, as part of the RRSP contract, has a prescribed addendum attached to it that prevents the ability to unlock or receive a cash lump sum and thereby makes the RRSP eligible to hold funds transferred from a Registered Pension Plan (RPP).

To be a LIRA, the financial institution issuing the RRSP must be an Authorized Issuer and the RRSP contract must have attached to it a copy of the addendum prescribed in Schedule 1 of the Regulation with respect to LIRAs (Form 24). The LIRA addendum must form part of the contract between the owner and the financial institution and the terms of the addendum take precedence over any other provision in the LIRA contract where there is a conflict. A copy of the entire contract, including the addendum, must be provided to the LIRA owner when a LIRA is established.

No other type of RRSP may hold RPP funds and no funds other than those transferred from an RPP may be held in a LIRA.

The purpose of a LIRA is to enable a pension plan member to, if the member so chooses, transfer their benefit entitlement out of the RPP when the member terminates membership in the plan, while maintaining the same rights and protections for the member and the member’s pension partner that existed while the funds were in the RPP. LIRA funds must be used to provide retirement income for the LIRA owner and their pension partner when the owner retires. With a few exceptions, there is no other way to access funds in a LIRA.

Sections 106 through 122 of the Regulation outline the process for a financial institution to establish a LIRA, the conditions that the LIRA contract must meet, and the process for transferring funds to and from a LIRA. Schedule 1 (Form 24) of the Regulation provides the prescribed addendum that must be attached to an RRSP to qualify it as a LIRA.

Definitions

Authorized Issuer: An Authorized Issuer is a financial institution whose name appears on the Superintendent's List of Financial Institutions (Superintendent's List) with respect to LIRAs.

Locking-In: Means that the funds in the LIRA must be used to provide lifetime retirement income to the owner, beginning no earlier than age 50, through the transfer of the LIRA funds to one or more of:

a) a Life Income Fund (LIF) with an authorized issuer;
b) a Life Income Type Benefit Account (LITB) within a pension plan; or
c) a non-commutable life annuity with an insurance company authorized to issue annuity contracts in Canada.

Life Income Type Benefit Account (LITB): An account similar to a LIF that may be offered by a defined contribution pension plan, to and from which locked-in funds may be transferred. (See Interpretive Guideline #2 for more information on LITBs).

Member Owner: A former pension plan member who has transferred their pension entitlement from the pension plan to the LIRA either from a pension plan or from another LIRA.

Owner: A Member Owner or a Pension Partner Owner.

Pension Partner: With respect to a Member Owner, is a person who is:

a) married to the Member Owner, and has not been living separate and apart from that Member Owner for a continuous period longer than three years; or
b) if clause (a) does not apply, has been living with the Member Owner in a marriage-like relationship:
    i) for a continuous period of at least three years preceding the date; or
    ii) of some permanence, if there is a child of the relationship by birth or adoption.

Pension Partner Owner: A Pension Partner who acquired the LIRA as a result of the pension plan member's death, whether that death occurred before or after the member transferred their funds out of the pension plan or who acquired the LIRA as a result of a matrimonial property settlement.

Waiver: The Pension Partner of a Member Owner may waive (give up) some or all of their entitlements provided by the LIRA contract. To do this a prescribed waiver form related to the type of entitlement to be waived must be signed and filed with the authorized issuer. These prescribed forms are found in Schedule 6 of the Regulation.

Establishment and Maintenance of the LIRA contract by a Financial Institution

Only financial institutions whose names appear on the Superintendent's List with respect to LIRAs are permitted to issue LIRAs. These financial institutions are referred to as authorized issuers in the legislation.

To be acknowledged and placed on the list, a financial institution must file with the Superintendent's office a completed application and certification form (Form 22) signed by an authorized representative of the financial institution. As part of that certification the financial institution agrees to attach the prescribed LIRA addendum (Form 24) to each LIRA contract and to provide a copy of the full contract, including the LIRA addendum to each LIRA owner.

When changes are made to the addendum through amendment to the Regulation, as happened on September 1, 2014, the financial institution on the Superintendent's List must ensure that the new addendum is used for all future establishments of LIRAs and that owners of existing LIRAs are provided copies of the new addendum for their records.

An authorized issuer may be removed from the Superintendent's List if that issuer fails to administer a LIRA in the manner required by the Act and Regulation. When this occurs, existing LIRAs may remain with the issuer but no new LIRAs may be issued.

Duties of the Authorized Issuer

An Authorized Issuer must ensure that:

a) the LIRA is administered in accordance with the Act and Regulation;
b) the LIRA is and continues to be registered under the *Income Tax Act* (Canada);
c) funds in the LIRA are invested in a manner that complies with the rules of the *Income Tax Act* (Canada) for the investment of RRSP money;
d) funds are not paid or transferred from the LIRA other than in accordance with section 71 of the Act and sections 117 to 121 of the Regulation;
e) any funds transferred out of the LIRA are, subject to section 71 of the Act and section 117 of the Regulation, transferred to:
    - a pension plan that permits such a transfer;
    - another LIRA;
    - a LIF; or
    - an insurance company authorized to issue annuity contracts in Canada to purchase a life annuity;
f) any statement referred to in section 89(1)(b) (pre-retirement death benefit waiver) of the Act signed by the pension partner of a member owner forms part of the contract; and
g) a copy of the LIRA contract, including the required addendum is provided to the owner at the time the contract is established.

Transfer of Funds to or From a LIRA

Funds may be transferred to a LIRA from:

- an RPP (other than from an LITB account of that RPP); or
- another LIRA.

Note: Funds may not be transferred from a LIF to a LIRA.

Funds may be transferred from a LIRA to:

- an RPP (if that plan so permits);
- another LIRA (same or different financial institution);
- a LIF; or
- an insurance company authorized to issue annuity contracts in Canada to purchase a life annuity.

<u>Duties of the Transferor (Sending) Pension Plan Administrator or Authorized Issuer</u>

1. Transferring funds to a LIRA or to an RPP other than to provide an LITB.

   A pension plan administrator or authorized issuer must, before transferring funds to a LIRA or an RPP:

   - ensure that the transferee (receiving) financial institution is an authorized issuer on the Superintendent's List or that the RPP is in fact registered and permits the transfer; and
   - ensure that any applicable waivers are transferred to the authorized issuer or new RPP
2. Transferring funds to a LIF, a life annuity or an LITB account in an RPP.

   A pension plan administrator or an authorized issuer must, before transferring funds to a LIF, a life annuity or an LITB account in a RPP:

   - ensure that the LIRA owner or plan member is at least age 50 for a transfer to a LIF or an LITB account;
   - ensure that:
     - in the case of a LIF, the transferee financial institution is an authorized issuer;
     - in the case of a life annuity, the financial institution is an insurance company authorized to issue annuity contracts in Canada and the annuity does not commence payments until the owner is at least age 50; and
     - in the case of an LITB account, that the fund can accept the transfer;
   - if funds are being transferred to purchase anything other than a 60 per cent joint and survivor life annuity ensure that:
     - the owner does not have a pension partner as of the date of transfer; or
     - the owner's pension partner has signed the appropriate waiver form;
   - if funds are being transferred to purchase a life annuity:
     - there is no differentiation amongst the annuitants on the basis of gender; and

    - annuity payments must commence on or before the last date on which a person is allowed under the *Income Tax Act* (Canada) to start receiving a pension from an RPP (December 31 of the year that they turn age 71);
- ensure that the owner has been advised of the entitlement to unlock up to 50 per cent of the value of the LIRA (except when funds are transferred to purchase an annuity) before transferring the funds to a LIF or LITB, and if the owner chooses to do so, that the appropriate waiver has been signed if the owner has a pension partner at the time of transfer and the amount requested to be unlocked is either transferred to an RRSP or paid as cash less withholding tax and any fees charged; and
- provide the receiving pension plan administrator, authorized issuer or insurance company with certified copies of any signed waivers related to the transfer.

Duties of the Transferee (Receiving) Pension Plan Administrator, Authorized Issuer, or Annuity Issuer

1. Transferring funds from a LIRA or an RPP other than to provide an LITB.

   A transferee pension plan administrator or authorized issuer receiving funds from a LIRA or an RPP must not accept funds into the LIRA unless:
   - the financial institution is an authorized issuer on the Superintendent's List with respect to LIRAs;
   - the RPP to which funds are to be transferred permits such a transfer and has a provision to continue to administer the funds as locked-in pension funds; and
   - the money is being transferred from an RPP or a LIRA.

   Where a copy of a signed pension partner waiver has been provided by the transferring authorized issuer or pension plan administrator, the transferee must attach that waiver to its LIRA contract or the member's pension plan file.

2. Transferring funds to provide a LIF, a life annuity or an LITB account in a pension plan.

   A transferee pension plan administrator, authorized issuer or insurance company issuing a life annuity receiving funds from a LIRA or an RPP must not accept funds unless they:
   - ensure that the transferor is an authorized issuer on the Superintendent's List with respect to LIRAs or LIFs or is an RPP administrator; and
   - have received certified copies of any relevant waivers.

Exceptions to Locking-in Act 71

There are five circumstances under which some or all of the funds held in a LIRA may be unlocked. If the amount is taken as cash, there will be tax and any fees deducted and the gross amount withdrawn is considered taxable income for that calendar year.

1. Small Amounts Unlocking
   Funds in a LIRA may be unlocked if the total amount in the LIRA is less than 20 per cent of the Year's Maximum Pensionable Earnings (YMPE). If the owner is age 65 or older, the threshold is 40 per cent of the YMPE.

   No waiver is required for this unlocking.

   Please note that it is specifically prohibited to split a LIRA into multiple LIRAs leaving any of the LIRA balances in some or all of those LIRAs to drop below the YMPE limit.

   Where the funds in a LIRA are below 20 per cent of the YMPE, the owner may move the funds to an RRSP or receive the funds as a cash lump sum less withholding tax and any fees charged.

2. Shortened Life Expectancy
   Funds in a LIRA may be unlocked if the owner has an illness or disability that is certified by a medical practitioner to be terminal or to likely shorten the owner's life considerably.

   If the owner has a pension partner when applying to unlock funds, then the pension partner must first sign and file with the authorized issuer a waiver (Waiver Form 13**)** agreeing to the unlocking.

   Should the owner unlock only a portion of the funds, a new waiver is required if further withdrawals are requested.

3. Non-residency
   If the owner of the LIRA provides to the authorized issuer written evidence that the Canada Revenue Agency has confirmed the status of the owner to be a non-resident of Canada for purposes of the *Income Tax Act* (Canada), then the owner may withdraw, in cash less withholding tax and any fees charged, the funds held in the LIRA.

   If the owner has a pension partner when applying to unlock funds, then the pension partner must first sign and file with the authorized issuer a waiver (Waiver Form 13) agreeing to the unlocking.

4. 50 per cent Unlocking
   When an owner is age 50 or older and decides to transfer funds in the LIRA to a LIF or LITB account, the owner may elect to unlock up to 50 per cent of the LIRA balance prior to transferring the funds into the retirement income arrangement.

   The unlocked portion may be taken in cash less withholding tax and any fees charged or transferred to a regular RRSP or RRIF.

If the owner has a pension partner when applying to unlock funds, then the pension partner must first sign and file with the authorized issuer a waiver (Waiver Form 14) agreeing to the unlocking.

If the balance remaining in the LIRA, after unlocking up to 50 per cent, meets the small amount unlocking in #1 above, then that portion may *also* be unlocked and transferred to an RRSP, RRIF or taken as cash less withholding tax and any fees charged . This means the remaining balance will not need to be transferred to a LIF or LITB, but this process must be documented.

5. Financial Hardship Unlocking
If an owner is suffering from a specific type of financial hardship, an application may be made to the authorized issuer to unlock some or all of the funds held in the LIRA. A summary of the financial hardship program is outlined in this document.

Disclosure

Authorized issuers must provide the following information to a LIRA owner within 30 days after the beginning of each calendar year:

- the amounts of any transfers made in the most recently completed calendar year;
- the preceding year's investment return;
- any administration expenses deducted, and any other payments or withdrawals made, in the most recently completed calendar year; and
- the value as at the end of the most recently completed calendar year.

Death Benefits

When the owner of a LIRA dies, death benefits are paid as follows:

1) If the owner is a **member owner**, then:
    a. If there is a pension partner on the date of death, that pension partner opens a LIRA, the money is transferred, and they are the pension partner owner;
    b. If there is no pension partner owner OR the pension partner has signed Form 12 which is a waiver to any pension partner death benefit, the named beneficiary receives the balance of the LIRA as a cash lump sum payment, but the pension partner **cannot** be the named beneficiary; or
    c. If there is no named beneficiary, the estate of the owner receives the balance of the LIRA as a cash lump sum payment less withholding tax and any fees charged.

2) If the owner is a **pension partner owner**, then:
    a. the named beneficiary receives the balance of the LIRA as a cash lump sum payment less withholding tax and any fees charged; or
    b. if there is no named beneficiary, the estate of the owner receives the balance of the LIRA as a cash lump sum less withholding tax and any fees charged

Records Retention

While not required by legislation, it is considered best practice for the transferring RPP administrator, or authorized issuer, to maintain a record of the owner showing:

- the name of the owner;
- the amount transferred;
- where funds were transferred;
- the date of transfer; and
- a copy of waivers, if there were any waivers sent with the transfer.

Waivers

There are several waivers that may be applicable under a LIRA. They are:

Form 8	Pension partner waiver to establish a LITB account
Form 10	Pension partner waiver to establish a LIF from a LIRA
Form 11	Pension partner waiver of entitlement to a 60 per cent joint and survivor annuity from a LIRA
Form 12	Pension partner waiver of entitlement to a death benefit from a LIRA
Form 13	Pension partner waiver to permit unlocking from a LIRA due to shortened life expectancy or non-residency
Form 14	Pension partner waiver to permit up to 50 per cent unlocking from a LIRA on establishment of a LIF or transfer to a LITB

Provisions of the LIRA Addendum

To be a LIRA, an RRSP contract must have, attached to and forming part of it, the prescribed addendum. The prescribed addendum provisions take precedence over any other terms in the LIRA contract where there is a conflict.

The addendum provides:

- that the only funds that may be transferred into a LIRA are locked-in money from an RPP of another LIRA;
- that funds may not be transferred out of a LIRA other than to:
    - o another LIRA;
    - o to purchase a life annuity;
    - o a LIF; or
    - o an RPP that permits such a transfer
- who is liable when funds are transferred improperly;
- that securities may be transferred to the LIRA if those securities represent acceptable LIRA transfer funds;
- the conditions and restrictions on the purchase of retirement income arrangements;
- for death benefit payments;
- unlocking provisions and requirements including the restriction on splitting the LIRA to reduce it to a small amounts;
- that the LIRA must be administered in accordance with the Act and Regulation;
- that investments must comply with the rules for the investments of RRSPs under the *Income Tax Act*, Canada;
- that in the event of marriage breakdown, the LIRA may be split

between the owner and the ex-spouse with a matrimonial property order or agreement filed with the LIRA issuer (note: the ex-spouse's portion remains locked-in). (See Interpretive Guideline 05 – Division and Distribution of Pension Benefits on Marriage Breakdown); and

- that funds in a LIRA may not be seized or attached by creditors, nor may the owner assign them or use them as collateral;
- that funds may be seized or attached under a maintenance enforcement order or by Canada Revenue Agency.

For further information please contact:	
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