

Addendum

Addendum for Nova Scotia LIRA

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

This Addendum forms a part of the main LIRA Agreement to which it is attached. In the case of any inconsistency between the main LIRA 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 LIRA Agreement.

2. Schedule 3 of *Pension Benefits Regulations* (Nova Scotia)

In accordance with the requirements of the *Pensions Benefits Regulations* (Nova Scotia) (the "Regulations"), Schedule 3 is included below as part of this LIRA Agreement.

3. Annual Information

We will provide the information described in Section 4 of Schedule 3 (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 LIRA and in an application to withdraw or transfer money from your LIRA, 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 LIRA 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 LIRA Agreement upon 90 days written notice.

We will not amend this LIRA 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 LIRA under the terms of the LIRA 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 LIRA.

7. Address of Scotiatrust

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

Schedule 3 - Nova Scotia LIRA Addendum (*Pension Benefits Regulations*)

Note: This document is Schedule 3 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 or Section 14 of the *Pooled Registered Pension Plans Act*, that provides for a division between spouses of any pension benefit, deferred pension, pension, LIRA or LIF, 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 LIRA:

- (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 LIRA 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,
- (vi) if the funds in the account of a pooled registered pension plan are used for the purchase, a person who transfers the amount in accordance with the *Pooled Registered Pension Plans Act* and the *Pooled Registered Pension Plans Regulations*;

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

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

- (i) are married to each other,
- (ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,
- (i) a former member who is entitled to make a transfer under clause 61(1)(b) of the Act,
- (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;

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

Note Re Requirements of the *Pension Benefits Act* and *Regulations* and the *Pooled Registered Pension Plans Act* and its regulations

Prohibitions on transactions from Section 91 of Act

Under Section 91 of the Act and Section 12 of the *Pooled Registered Pension Plans Act*, money held in a LIRA 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.

Addendum (continued)

Values of assets in LIRA subject to division

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

- an order of the Supreme Court of Nova Scotia that provides for a division of a pension benefit, deferred pension or pension under Section 74 of the Act, or a division of the funds in a pooled registered pension plan account under Section 14 of the *Pooled Registered Pension Plans Act*
- a domestic contract that provides for the division of a pension benefit, deferred pension or pension under Section 74 of the Act, or a division of the funds in a pooled registered pension plan account under Section 14 of the *Pooled Registered Pension Plans Act*
- the regulations.

Money held in LIRA

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

- Money held in a LIRA must not be assigned, charged, or given as security except as permitted by subsection 88(3) of the Act, Section 90 of the Act, subsection 12(3) of the *Pooled Registered Pension Plans Act* or Section 13 of the *Pooled Registered Pension Plans Act*, and any transaction purporting to assign, charge, anticipate or give the money in the LIRA as security is void.
- Money held in a LIRA is exempt from execution, seizure or attachment except for the purpose of enforcing a maintenance order as permitted by Section 90 of the Act or Section 13 of the *Pooled Registered Pension Plans Act*.

Transferring assets from LIRAs

2. (1) An owner of a LIRA may transfer all or part of the assets in the LIRA to any of the following:
 - (a) the pension fund of a pension plan registered under the pension benefits legislation in any Canadian jurisdiction or to the pension fund of a pension plan provided by a government in Canada;
 - (b) a LIRA held by another financial institution;
 - (c) a LIF;
 - (d) a life annuity;
 - (e) a pooled registered pension 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.
- (3) If assets in a LIRA consist of identifiable and transferable securities, the financial institution providing the LIRA may transfer the securities with the consent of the owner of the LIRA.
- (4) A financial institution providing a LIRA must advise the financial institution to which the assets of the LIRA are transferred
 - (a) that the assets were held in a LIRA in the current year; and
 - (b) whether the assets were determined in a manner that differentiated on the basis of sex.

Information to be provided by financial institution on transfers of assets of LIRAs

3. If the assets in a LIRA are transferred, the financial institution providing the LIRA must give the owner the information required by Section 4 of this Schedule, determined as of the date of the transfer.

Information to be provided annually by financial institution

4. At the beginning of each fiscal year of a LIRA, a financial institution providing the LIRA must provide all of the following information to the owner about their LIRA as of the end of the previous fiscal year:

- (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 LIRA,
 - (iv) any withdrawals from the LIRA,
 - (v) the fees charged against the LIRA;
- (b) the value of the assets in the LIRA at the beginning of the fiscal year of the LIRA.

Death benefits

5. (1) If the owner of a LIRA dies, the following are entitled to receive a benefit equal to the value of the assets in the LIRA, subject to subsections (4) and (5):
 - (a) the owner's spouse;
 - (b) if there is no spouse or if the spouse is 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 LIRA 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 LIRA includes all accumulated investment earnings, including any unrealized capital gains and losses, of the LIRA from the date of death until the date of payment.
- (4) A spouse is not entitled to receive the value of the assets in a LIRA under clause (1)(a) if the owner of the LIRA was not
 - (a) a member or former member of a pension plan from which the assets were transferred, directly or indirectly, to purchase the LIRA; or
 - (b) a member of a pooled registered pension plan from which the assets were transferred, directly or indirectly, to purchase the LIRA.
- (5) A spouse who, as of the date the owner dies, is living separate and apart from the owner of a LIRA without a reasonable prospect of resuming cohabitation, is not entitled to receive the value of the assets in the LIRA 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 6 of this Schedule;
 - (b) the terms of a written agreement respecting the division of the LIRA that was entered into before the date of the owner's death disentitle, or do not expressly or impliedly entitle, the spouse to receive an amount under the LIRA;
 - (c) the terms of a court order issued before the owner's death disentitle, or do not expressly or impliedly entitle, the spouse to receive an amount under the LIRA.
- (6) The benefit described in subsection (1) may be transferred to a registered retirement savings arrangement in accordance with the federal *Income Tax Act*,

Waiver of entitlement to death benefits by spouse

6. (1) A spouse of an owner of a LIRA may waive their entitlement to receive a benefit described in Section 5 of this Schedule from the LIRA, by delivering, any time before the death of the owner, a written waiver in an approved form to the financial institution providing the LIRA.
- (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 LIRA dies.

Information to be provided by financial institution on death of owner

7. If the owner of LIRA dies, the financial institution providing the LIRA must give the information required by Section 4 of this Schedule, determined as of the date of the owner's death, to any person who is entitled to receive the assets in the LIRA under subsection 5(1) of this Schedule.