

Update 07-01: Alert

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Illegal Locked-in Account Unlocking Scheme

The Superintendent of Pensions has been advised of a potential unlocking scheme in which locked-in accounts (LIRAs or LIFs) are split and amounts are transferred from one financial institution to one or more institutions for the purpose of unlocking. As a result, the newly established locked-in account(s), and possibly the original locked-in account, each fall below the small amounts prescribed by the *Employment Pension Plans Act* (the Act).

Scenario 1 (Complete Transfer) - A financial institution holding a locked-in account is given instruction to split the locked-in account to amounts less than the small amount provisions under the Act. These amounts are transferred to new multiple accounts at one or more *different* financial institutions(s). A form letter is received soon after by the receiving institution instructing the unlocking and full withdrawal because the account balance is less than the small amount provisions under the Act.

Another form letter is presented to the receiving institution and signed by the client asserting that the member does not have any other locked-in account(s) with any other financial institutions.

Scenario 2 (Partial Transfer) - A financial institution holding a locked-in account is given instruction for partial transfer of the locked-in account. The amount instructed to be left behind is less than the small amounts provision under the Act. Eventually instruction will come to unlock the remaining amount because it is now below the small amounts limit.

THE ACT PROHIBITS THESE SCHEMES - THEY ARE ILLEGAL.

At the moment, correspondence and form letters to financial institutions from one credit consulting firm have been brought to the Superintendent's attention for investigation. We recommend all financial institutions carefully review correspondence instructing the transfer or cashing out of locked-in accounts in all cases. *Any correspondence from any source that appears contrary to the Act should be submitted to our office for review.*

Financial Institutions will note Section 38 (2.2) of the Act

Section 38 (2.2) A transfer under subsection (1) (whether at a single time or as a series of payments under subsection (2.1)) may not be severed so that the transfer is made to 2 or more different vehicles referred to in subsection (2) if the transfer at one time of the whole of the

commuted value to a single vehicle would result in the transferred money's being locked in but severance would render any portion of it unlockable.

Financial Institutions will note Section 92(2) for the benefit of their clients

Section 92 (2) A person who makes a false or misleading statement for the purpose of obtaining a benefit under section 46 or a prescribed provision respecting locked--in retirement accounts or retirement income arrangements is guilty of an offence and liable to a fine not exceeding \$15 000.

The small amounts provisions:

Amounts at or below 20% of the Yearly Maximum Pensionable Earnings (YMPE) are commutable and if age 65 or older the commutable amount rises to 40% of (YMPE).

2007 (YMPE) - 43,700.00 (20% - 8,740.00 / 40% - 17,480.00)

In your administration of Alberta locked-in accounts please remind your processing staff of Section 38 (2.2). Alberta locked-in accounts in 2007 cannot be split to an amount at or less then \$8,740.00 and no transfer amount from a locked-in account can leave a remaining balance of \$8,740.00 or lower. The limits are doubled for clients age 65 and older. See [Policy Bulletin #24, Maximum Commutable Amounts](#) for more information.

For further information please contact:

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