

Declaration of Trust

1. Terms Used in this Agreement

Words and phrases used in this Agreement have the following meanings:

Agreement means the Application and this Declaration of Trust;
applicable pension legislation means the *Pension Benefits Act* and regulations, as amended from time to time, of the jurisdiction which governs the Scotia Self-Directed LIF, LRIF, Saskatchewan PRRIF, Manitoba PRRIF or Federal RLIF set up with your Application. The governing jurisdiction is indicated on the Application;
applicable tax legislation means the Tax Act and any applicable provincial tax legislation, as amended from time to time;
Application means your application for this Plan;
Federal RLIF means a RRIF that complies with section 20.3 of the *Pension Benefits Standards Regulations, 1985* (Canada);
Federal RLSP means an RRSP that complies with section 20.2 of the *Pension Benefits Standards Regulations, 1985* (Canada);
fiscal year means the fiscal year of the Plan. It ends on December 31 each year and shall not exceed 12 months;
life annuity has the same meaning as in the applicable pension legislation and as stipulated in the definition of "retirement income" under subsection 146 (1) of the Tax Act and that complies with paragraph 60 (l) of the Tax Act;
LIF means a life income fund that is registered as a RIF under the Tax Act and complies with applicable pension legislation;
LIRA means a locked-in retirement account that is registered as an RSP under the Tax Act and complies with applicable pension legislation;
LRIF means a locked-in retirement income fund that is registered as a RIF under the Tax Act and complies with applicable pension legislation;
Locked-in RRSP (LRSP) means an RRSP which contains provisions required under applicable pension legislation that restrict the holder's access to the funds because they originated from a registered pension plan governed by applicable pension legislation;
Manitoba PRRIF means a RRIF that complies with section 18.3.1 of the *Pension Benefits Act Regulations* (Manitoba);
marriage breakdown means divorce, annulment of your marriage, separation for the period of time required by any applicable legislation or, in the case of unmarried spouses, when you stop living together;
owner or customer means the annuitant;
Plan means the Scotia Self-Directed RIF, LIF, LRIF, Saskatchewan PRRIF, Manitoba PRRIF or Federal RLIF set up with your Application;
Registered Retirement Income Fund (RRIF) and Registered Retirement Savings Plan (RRSP) means a retirement income fund (RIF) and a retirement savings plan (RSP), respectively, that have been registered under the Tax Act;
RIF means a retirement income fund as defined by the Tax Act;
Saskatchewan PRRIF means a RRIF that complies with section 29.1 of *The Pension Benefits Regulations 1993* (Saskatchewan);
spouse has the same meaning as recognized in applicable pension and tax legislation and includes a common-law partner as defined in the Tax Act;
Tax Act means the *Income Tax Act* (Canada), as amended from time to time;
we, our and us mean The Bank of Nova Scotia Trust Company (Scotiustrust);
you and your mean the customer (annuitant) named on the Application.

2. Registration

We will apply for registration of your Plan, as required by applicable tax legislation. We agree to accept the position of trustee of your Plan once we have received your completed Application.

3. Purpose

The purpose of the Plan is to provide you with a retirement income. All funds transferred to the Plan, including all income, investments, interest and gains, will be held in trust by us and invested in accordance with this Agreement and applicable pension and tax legislation.

4. Sources of Funds

Cash, mutual funds or other investments transferred to the Plan must be qualified investments within the meaning of the applicable tax legislation.

All amounts transferred to your Scotia Self-Directed RIF must come from:

- another RRIF or RRSP you own;
- an RRSP or RRIF of which your spouse or former spouse is an owner, as part of a judgement of a competent tribunal or written separation agreement relating to the division of property following marriage breakdown;
- another RRIF, RRSP or registered pension plan if the money is an amount described in subparagraph 60(l) (v) of the Tax Act;
- a specified pension plan in the circumstances permitted by subsection 146 (21) of the Tax Act; or
- other sources that may be permitted from time to time by the applicable tax legislation.

Where required, a transfer from a registered pension plan to a RIF as a result of the death of your spouse must not include any amount that is actuarial surplus.

All amounts transferred into your Scotia Self-Directed LIF, LRIF, Saskatchewan PRRIF or Federal RLIF must be locked-in, meaning that your access to them is restricted by applicable pension legislation and must comply with applicable tax legislation.

Funds transferred to your Scotia Self-Directed LIF, LRIF or Saskatchewan PRRIF must come from:

- a registered pension plan of which you are a member or former member;
- an LRSP or LIRA you own;
- a registered pension plan, LRSP, LIRA or LIF of which your former spouse is a member, former member or owner as part of a judgment of a competent tribunal or written separation agreement relating to the division of property following marriage breakdown;
- a registered pension plan of which your spouse was a member, as a result of the death of your spouse;
- other sources that may be permitted as stipulated in paragraph 146.3 (2) (f) of the Tax Act from time to time;
- a specified pension plan in the circumstances permitted by subsection 146 (21) of the Tax Act;
- if you hold a Scotia Self-Directed LIF, another LIF you own or, if allowed under applicable pension legislation, from a LRIF you own;
- if you hold a Scotia Self-Directed LRIF, another LRIF you own or, if allowed under applicable pension legislation, from a LIF you own; or
- if you hold a Scotia Self-Directed LIF or LRIF, an LRSP, LIRA, registered pension plan, or a LIF or LRIF, as may be allowed under applicable pension legislation, under the circumstances described in subparagraph 60(l)(v) of the Tax Act.

A transfer to your Scotia Self-Directed LIF or LRIF from a registered pension plan of which you are a member or former member or from an LRSP or LIRA that you own may require the written consent of your spouse.

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5. Investments

You may invest your funds in any investment permitted by the Tax Act and applicable provincial legislation and which are permitted by us. To do so, you must tell us how you want your funds to be invested. We may require you to provide such documentation in respect of any investment or proposed investment, as we in our sole discretion deem necessary in the circumstances. You have a responsibility to determine whether any investment is a qualified investment. We will exercise the care, diligence and skill of a reasonably prudent person to minimize the possibility that the Plan holds a non-qualified investment.

You may appoint an agent, satisfactory to us, to give us your investment directions which we may act on without incurring any liability.

You may transfer funds from one investment to another, provided this is permitted by the terms of the investment. To do so, you must tell us in writing.

We will keep legal ownership and possession of the investments in your Plan in whatever form we determine.

We may calculate interest on investments in your Plan and credit it to your account more frequently than we tell you when you complete the Application. All interest and income earned by the investments, as well as any bonus we may declare, is credited to your Plan.

We do not pay interest on regular payments or amounts that you withdraw or transfer after we have processed your request for the transaction.

Unless you give us instructions, we are not obliged to exercise voting rights with respect to the investments in your Plan.

6. Valuation

Your Plan is worth the total market value of all of its assets. The market value of a Guaranteed Investment Certificate in your Plan is the original face value of the investment plus compounded interest, as well as any accrued interest. In the case of a cash balance, the market value is the current balance plus accrued interest. Accrued interest is included whether or not it has been credited.

The market value of other investments held in your Plan is determined by general industry practices.

We calculate the value of your Plan at the end of the last business day of the fiscal year, on the date of a transfer or permitted withdrawal, on the date of your death and at such other times as we deem appropriate. Our valuation is conclusive and binding.

7. Calculating Payments

Payments from your Scotia Self-Directed RIF, Saskatchewan PRRIF or Manitoba PRRIF will always fall between the minimum amount required to be withdrawn under the Tax Act and the total value of your Plan immediately before the payment.

Payments from your Scotia Self-Directed LIF, LRIF or Federal RLIF will always fall between the minimum amount required to be withdrawn under the Tax Act and the maximum amount permitted by applicable pension legislation.

In calculating the required minimum amount under your Plan, you can use your age or the age of your spouse. This decision is binding and cannot be changed once the first payment is made. For the first year of your Plan, the minimum amount to be paid is set at zero.

To calculate the maximum amount payable under your Scotia Self-Directed LRIF in a fiscal year, we use one of the following methods, whichever results in the greatest amount:

- the LRIF's value at the beginning of the fiscal year minus the net amount transferred into the LRIF. The net amount is calculated by subtracting the amount transferred out of the LRIF under Section 9 of this Agreement from the amount transferred into the LRIF,
- the investment income earned in the previous fiscal year, or
- 6% of the LRIF's value at the beginning of the fiscal year the LRIF was established or the fiscal year after.

To calculate the maximum amount payable under your Scotia Self-Directed LIF in a fiscal year, we divide the total amount in your LIF on the first day of the fiscal year by the value, at the beginning of the fiscal year, of a pension which would pay you \$1 a year on the first day of each fiscal year from that year until December 31 of the year in which you reach age 90.

In calculating the value of this pension, we must use an interest rate of not more than six per cent per year. For the first 15 years of the LIF, however, an interest rate greater than six per cent may be used provided that it is no more than the interest rate obtained on long-term bonds issued by the Government of Canada for the month of November in the year preceding the year of the valuation. This rate is compiled by Statistics Canada and published in the Bank of Canada Review under identification number B-14013 in the CANSIM system.

If the minimum amount is greater than the maximum amount, then the minimum amount must be paid out of your Scotia Self-Directed LIF, LRIF or Federal RLIF.

In the first year of your Scotia Self-Directed LIF or LRIF, the maximum permitted payment is adjusted in proportion to the number of months in that fiscal year, with any part of an incomplete month counting as one month.

If your Scotia Self-Directed LIF or LRIF includes funds transferred in the first fiscal year from another LIF or a LRIF that you own, you are not allowed to withdraw any of the transferred portion in that year, unless applicable tax legislation states otherwise.

8. Making Payments

Payments from your Plan begin no earlier than allowed by applicable pension legislation and no later than the last day of the year after the year in which you open the Plan.

We pay you the amount you choose on your Application provided that (a) if this is a Scotia Self-Directed RIF, Saskatchewan PRRIF or Manitoba PRRIF, the amount must fall between the required minimum amount and the total value of your Plan, and (b) if this is a Scotia Self-Directed LIF, LRIF or Federal RLIF the amount must fall between the required minimum amount and the maximum amount permitted by the applicable pension legislation.

In each subsequent year, we pay you the same amount unless you tell us in writing that you have chosen another amount. If you do not choose an amount on your Application, we pay you the required minimum amount.

If permitted by the applicable pension legislation, you may make withdrawals from your Scotia Self-Directed LIF or LRIF if a physician certifies to us that, due to a mental or physical disability or terminal illness, your life expectancy is likely to be shortened considerably. These withdrawals may be in the form of a lump sum or a series of payments, depending on the applicable pension legislation.

The last payment to you from your Scotia Self-Directed LIF must be made no later than the end of the year in which you reach age 80, unless applicable pension legislation states otherwise. At or before that time, you must use the funds in the LIF to purchase an immediate life annuity that meets the requirements of the Tax Act and applicable pension legislation. If you do not do so, we will make the purchase on your behalf. You appoint us your attorney, or agent, to make all the necessary arrangements.

All amounts you receive from your Plan are subject to tax in the year of withdrawal. Any withdrawals above the required minimum amount will have the appropriate income tax withheld. At the end of the fiscal year, you have to declare all payments and pay any tax that you owe.

In order to make payments to you, we may have to withdraw, liquidate or sell all or part of one or more of your investments prior to their maturity date. We assume no liability for any losses that result.

9. Transfers

Provided that the investments involved have matured, we will, if you tell us in writing to do so, transfer all or part of the funds in your Plan. We will transfer the funds within 30 days of your request, as follows:

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From your Scotia Self-Directed RIF to:

- another RRIF you own;
- an RRSP you own, provided that it is before the end of the year in which you reach age 71;
- an immediate or deferred annuity that meets the requirements of paragraph 60 (l) of the Tax Act. The deferred annuity must start no later than the end of the year in which you turn age 71; or
- another permissible registered retirement investment vehicle that meets the requirements of the Tax Act.

From your Scotia Self-Directed Manitoba PRRIF to:

- another Manitoba PRRIF; or
- a life annuity contract.

From your Scotia Self-Directed LIF, LRIF or Saskatchewan PRRIF to:

- an LRSP or LIRA, depending on applicable pension legislation, provided that it is before the end of the year in which you reach age 71;
- an immediate or deferred life annuity that meets the requirements of paragraph 60 (l) of the Tax Act and applicable pension legislation. The deferred annuity must start no later than the end of the year in which you turn age 71;
- if you hold a Scotia Self-Directed LIF, another LIF you own or, if allowed under applicable pension legislation, to a LRIF you own;
- if you hold a Scotia Self-Directed LRIF, another LRIF you own or, if allowed under applicable pension legislation, to a LIF you own; or
- another permissible registered retirement investment vehicle that meets the requirements of applicable tax and pension legislation.

Before we make a transfer, you must give us any documents we need.

We may make a transfer by remitting the investment securities held in your Plan.

All transfers must be made in accordance with applicable pension and tax legislation and will not include funds to be retained under paragraph 146.3(2)(e) of the Tax Act.

We will provide all necessary information to the new carrier.

10. Estate Matters

If you die before the payments from your Scotia Self-Directed RIF end, we will (a) make the remaining payments to your spouse, or (b) transfer the funds in your RIF to an RRSP, RRIF or life annuity owned by your spouse, if this is what you elected on your Application. This assumes that you have a spouse at the time of your death.

Except as may otherwise be provided in this Agreement, if you die before the payments from your Scotia Self-Directed LIF, LRIF, Saskatchewan PRRIF or Manitoba PRRIF end, we will pay the remaining funds in your Plan to your spouse. This assumes that you have a spouse at the time of your death. This provision does not apply to the spouse of the surviving spouse of the original Plan owner.

Your spouse may transfer the funds from your Scotia Self-Directed LIF or LRIF to another LIF, LRIF, life annuity or any other permitted retirement income vehicle available under applicable pension legislation or, if permitted under applicable pension legislation, receive the funds in a lump sum cash payment.

Upon your death, we will pay the funds in your Plan to your beneficiary, if any, if

- you do not have a spouse when you die; or
- this is a Scotia Self-Directed RIF and you have elected other than as indicated in the first paragraph of this Section 10; or
- this is a Scotia Self-Directed Saskatchewan PRRIF and either your spouse does not survive you for 30 days or more, or you are not a former member of the pension plan from which the money in your Scotia Self-Directed Saskatchewan PRRIF was directly or indirectly transferred; or

- this is a Scotia Self-Directed Manitoba PRRIF and your spouse has received or is entitled to receive all or any part of the funds in your Plan pursuant to an agreement or order under *The Family Property Act* (Manitoba); or
- this is a Scotia Self-Directed LIF, LRIF or Saskatchewan PRRIF and your spouse has provided us with the waiver referred to in Section 11 of this Agreement.

You may designate your beneficiary in your will. Alternatively, in provinces where it is allowed, you may designate your beneficiary on a form acceptable to us and in accordance with applicable provincial legislation. You can change or revoke your designation at any time, either in your will or, if allowed, on a form that we accept.

We will make payment to the most recently designated beneficiary of which we have notice, if you have made designations more than once. If, upon your death, the funds in your Plan are not payable pursuant to this Agreement to your spouse, and if you do not designate a beneficiary, your beneficiary dies before you or your designation is not permitted by the province where you live, we will pay the funds in your Plan to your estate.

Before we make any payment pursuant to this Section 10, we need proof of your death and may need other documents. We will deduct any applicable taxes, fees and expenses from the payment.

11. Entitlement of Your Spouse

The provisions of the applicable pension legislation regarding division on marriage breakdown and subsection 146.3(14) of the Tax Act apply to this Agreement.

If permitted your spouse may, within the time permitted by applicable pension legislation and before conversion of your Scotia Self-Directed LIF, LRIF or Saskatchewan PRRIF to a life annuity, waive his or her interest in the funds or revoke such a waiver in the manner required by the applicable pension legislation. We must be told in writing, in a form acceptable to us, of a waiver or revocation and before the time set out in the applicable pension legislation.

If your marriage breaks down, the funds in your Scotia Self-Directed LIF, LRIF or Saskatchewan PRRIF and the payments out of the LIF, LRIF or Saskatchewan PRRIF may be divided according to any court order under applicable family law that divides family property. Except as may be provided by applicable law regarding division on marriage breakdown, on marriage breakdown your spouse ceases to be entitled to the funds in your Scotia Self-Directed LIF or LRIF unless you have named him or her as beneficiary.

12. Proof of Information

You certify the accuracy of all of the information you have given us in your Application, including all birth dates, and you agree to give us any further proof that we may need.

13. Exemptions and Prohibitions

You cannot commute, withdraw or surrender any of the funds in your Scotia Self-Directed LIF or LRIF except (a) where an amount has to be paid to you in order to reduce the tax otherwise payable under Part X.1 of the Tax Act, or (b) as permitted by applicable pension legislation. Any transaction that contravenes this provision is void.

Except where permitted by law, the amounts held in your Plan may not be used to satisfy a judgment against you and cannot be seized or attached. In addition, except if applicable pension legislation requires otherwise, you agree not to give anyone else an interest in the funds in your Plan or to assign in whole or in part the payments thereunder and any transaction purporting to so give or assign is void.

Except as otherwise provided in Section 15 of this Agreement, we cannot use any right of set-off against any amounts in your Plan to pay a debt obligation you may have to us.

14. No Benefit

No benefit or loan, as defined under paragraph 207.01(1) of the Tax Act, may be extended to you or to any person with whom you are not dealing at arm's length.

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15. Fees and Expenses

We are entitled to receive fees and to recover all reasonable expenses for the administration of your Plan. We tell you what our fees are when you apply to open your Plan. We may change them from time to time and, if we do so, we will tell you in writing at least 60 days before the new fees go into effect.

Our fees and expenses and those of our agent as well as any applicable taxes may be deducted from the funds in your Plan, unless prohibited by the Act.

We may retain part of your Plan in cash to pay our fees and other expenses. To cover these charges, we can liquidate assets in your Plan without liability.

16. Amendments

From time to time we may amend this Agreement, with the concurrence of regulatory authorities if required. If we do so, we will give you 60 days notice in writing. No amendment, however, will disqualify your Plan as a RIF, LIF, LRIF, Saskatchewan PRRIF, Manitoba PRRIF or Federal RLIF, as applicable.

If this is a Scotia Self-Directed LIF or LRIF Agreement, no amendment shall be made to this Agreement that would reduce its benefits unless we give you at least 90 days prior written notice describing the amendment and indicating the date before which you may transfer, in accordance with the applicable pension legislation, the assets in your Scotia Self-Directed LIF or LRIF, as applicable. In addition, the Agreement must remain in conformity with the standard contract filed with the Superintendent of Pensions and an amendment shall only be made if we are required by law to make the amendment.

If an amendment results from changes to the Tax Act or applicable pension legislation, this Agreement will be considered to be automatically amended and we will not be required to tell you about it. Nor will we be required to tell you about changes to investment options that do not affect the investments in your Plan.

17. Statements

We will give you at least quarterly a statement for your Plan. The statement will show the following information since your last statement:

- amounts deposited, their source, the accumulated earnings, the payments made and the fees charged;
- cost and current value of your investments;
- required minimum amount and additionally, for LIFs, LRIFs and Federal RLIF the maximum permitted amount that can be paid to you in the current fiscal year;
- proceeds from the sale of your investments.

If you transfer funds from the Plan, we give you the same information, determined at the date of the transfer.

If you die, the information is determined at the time of your death and given to the person entitled to receive the balance of your Plan.

18. Our Right to Appoint an Agent

You authorize us to delegate the performance of our duties under this Agreement to an agent or agents or professional advisors that we choose. We acknowledge, however, that the ultimate responsibility for the administration of your Plan is ours.

19. Resignation

We may resign from our duties under this Agreement by giving you 90 days notice in writing. If we resign, we will transfer the balance of your Plan to another carrier that we choose. We will give the other carrier all the information necessary for the administration of your Plan within 90 days of notifying you of our resignation. If we transfer your Plan to another carrier, we will retain an amount equal to the minimum amount which must be paid out of your Plan to ensure this payment is made to you in the year of transfer.

20. Notice

To give us notice about anything relating to this Agreement, write to us at the branch location indicated on the monthly statement for your Plan. We consider that we have received your notice on the day it is actually delivered to us.

If we send you a notice, statement or receipt, we consider that you have received it 48 hours after we have mailed it to you at the last address that we have for you in our records.

21. Indemnity

You, your spouse and your respective heirs and personal representatives shall indemnify us for any governmental charges imposed on your Plan or the payments made from it as well as for any other charge or liability which we may incur as a result of our undertaking our obligations under this Agreement, unless prohibited by the Act.

We are not responsible for any losses incurred by the Plan or for any reduction in the value of your Plan, except if due to our own negligence, deliberate wrongdoing or lack of good faith. From the date the Plan is converted into a life annuity, we have no further liability to you for it.

22. Governing Laws

This Agreement is governed by applicable tax and pension legislation and by the laws of the jurisdiction in Canada indicated on your Application. It is to be interpreted in accordance with those laws.

23. Branch of Account

For purposes of the *Trust and Loan Companies Act* (Canada), the branch of account for your Plan is the branch location indicated on the statement for your Plan. We may change your branch of account by giving written notice to you.

24. Qualifying Recognised Overseas Pension Scheme (QROPS)

If the Plan contains funds that have benefitted from U.K. tax relief, the Plan may only contain funds that have benefitted from U.K. tax relief. Notwithstanding anything to the contrary in this Declaration of Trust, the following applies:

- no transfer or payment may be made, including without limitation as a pension or lump-sum payment, unless (i) you have reached the age of 55; or (ii) (a) we have received evidence from a registered or recognised medical practitioner that you are (and will continue to be) incapable of carrying on your occupation because of physical or mental impairment; and (ii)(b) you have in fact ceased to carry on your occupation; or (iii) the funds are transferred to another QROPS or U.K. Registered Pension Scheme.
- any transfer or payment will be reported to HM Revenue and Customs (U.K.) unless (i) you have not been a U.K. resident in the Taxable Period, and (ii) more than 10 years has elapsed since the date on which the Relevant Transfer Fund (i.e. the Plan) came into existence. Taxable Period means the U.K. tax year (6 April to the next following 5 April) in which a payment or transfer is made and the five immediately preceding U.K. tax years.