Affidavit #1 of J.E. Marks
made November 19, 2025

NO. S243397
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

GEISS HOLDINGS LTD.

PLAINTIFF

AND

RBC LIFE INSURANCE COMPANY doing business as RBC INSURANCE, and ROYAL BANK OF CANADA

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

AFFIDAVIT OF JOSEPHINE E. MARKS

I, Josephine E. Marks, of 5140 Yonge Street, Suite 1700, Toronto, Ontario, AFFIRM THAT:

1. I am a Principal at Eckler Ltd. I have personal knowledge of the matters and facts hereinafter sworn to, except where stated to be based on information and belief, in which case, I verily believe the matters and facts stated to me to be true.

2. I am a Fellow of the Canadian Institute of Actuaries, a Fellow of the Society of Actuaries, and a Chartered Financial Analyst. I have extensive experience with life insurance products, including risk management, product design, financial reporting and governance. I have overseen the investment management functions of major pension and insurance funds, and I currently serve as the Appointed Actuary for four Canadian life insurance companies and six Caribbean life insurance companies. My CV is attached to this affidavit and marked as **Exhibit "A".**

3. I have been asked by counsel for the Defendants to act as an expert witness in this proceeding and to prepare a report. A copy of the letter of instruction that I received from counsel for the Defendants is attached to this affidavit and marked as **Exhibit "B"**.

4. My report, in which I respond to the letter of instruction from counsel for the Defendants, is attached to this affidavit and marked as **Exhibit "C"**.

5. I am aware of my duty under the Supreme Court Civil Rules to assist the court and not to be an advocate for any party. I certify that I have made my report in conformity with that duty and that, if called to give testimony in this proceeding, my testimony will be given in conformity with that duty.

AFFIRMED BEFORE ME at the City of Toronto, Ontario, this 19th day of November, 2025.

A Notary in Ontario
5140 Yonge St.
Kozobko7@ckler.ca
416-696-3004

JOSEPHINE E. MARKS

This is Exhibit **"A"** referred to in the affidavit of Josephine Marks
Affirmed before me at Toronto in the Province of Ontario this
19 day of November, 2025.

A Notary in Ontario

JOSEPHINE E. MARKS, FSA, FCIA, CFA

Eckler Ltd	Bus: (416) 696-4016
5140 Yonge Street, Suite 1700	Cell: (416) 540-8232
Toronto, Ontario M2N 6L7	jmarks@eckler.ca

Career History

ECKLER LTD
Toronto, Ontario **Oct 2012 - Present**

Principal
Providing actuarial and consulting services to life insurance clientele of Eckler Ltd. Responsibilities include client service and satisfaction, business development and providing leadership to the life insurance services practice in the Toronto area. Typical mandates include:

- Service as an Appointed Actuary, in accordance with regulatory and professional expectations
- Pricing, valuation and financial reporting advice for insurance and annuity products
- Advice on mergers and acquisitions in the life insurance sector
- Advisory services on asset-liability management, risk management and capital management
- Peer review of the work of the appointed actuary and reviews as an independent actuary
- Strategic advice on business structures and governance

SCOTIABANK **June 2008 – Sep 2012**
Toronto, Ontario

Managing Director, Pension Assets
Responsible for direct and indirect oversight of Scotiabank's global pension assets, with plans in Canada, U.S., U.K., Jamaica, Mexico and Puerto Rico. Responsibilities include the development and implementation of investment strategy and efficient execution of portfolio strategies. Total pension assets were $5 billion, with contributory impact of up to $100 million on bank's net income.

- Developed and secured approval for investment beliefs and a new liability-based risk management framework applicable for the principal pension plans, working closely with senior bank executives and external pension plan committee members.
- Implemented a more tactical approach to portfolio management which benefited portfolio results during the market turmoil of 2008 and secured agreement for allocations to various opportunistic mandates which added value throughout my tenure.
- Delivered strong absolute and relative performance for principal pension plans relative to other comparable pension plans (top 1/3 outcomes) and outperformed public market benchmarks by 50-100 bps for three-year periods ending December 2011.

INDEPENDENT CONSULTANT **July 2006 – May 2008**
Toronto, Ontario

- Independent consultant with a focus on areas such as investment portfolio strategy, asset-liability management and international risk management standards for pension plans, life insurance and P&C insurance (clients included Aviva Canada and Transamerica Life)
- Author of three-part series on liability-driven investing for *Canadian Investment Review* and regular columnist on investment topics for the Online Expert Panel of *Benefits Canada.*
- Speaker at industry conferences (PIAC, CPBI, TD Forum and Canadian Investment Council) on topics such as portfolio strategy, liability-driven investing and group governance dynamics.

HOSPITALS OF ONTARIO PENSION PLAN (HOOPP) **May 2004 – June 2006**
Toronto, Ontario

Senior Vice-President, Investment Management & Chief Investment Officer
Responsible for overall investment management of HOOPP's pension fund with $25 billion in assets, with holdings in Canadian, U.S. and international equity, fixed income, real estate, private equity and derivative strategies.

- Provided strategic leadership for HOOPP pension fund. Developed new investment strategy with emphasis on total fund outcome, asset-liability management and risk/return framework. Secured extensive policy revisions from HOOPP Board of Trustees, endorsement of strategy by CEO and senior investment staff and restructuring of public market portfolios in support of new direction.
- Delivered exceptional portfolio performance results with first quartile returns, well above internal benchmarks. Fund performance was 11.35 % in 2004 (90 bps above benchmark), 14.66 % in 2005 (69 bps above benchmark) and 12.79 % in 2006 (91 bps above benchmark. (Impact of new strategy also evident in 2007 and 2008 results).
- Provided business leadership with an entrepreneurial management style to enhance infrastructure in support of new strategic direction. Acted as Chair of Investment Technology Steering Committee, provided indirect supervision of investment finance support and drove re-design of incentive compensation plan.
- Provided team leadership and motivation to enhance teamwork, trust, respect and employee engagement. Demonstrable results through employee survey results with overall job satisfaction improving from 81 % to 91 % during tenure.

MARITIME LIFE ASSURANCE COMPANY **October 2001 – May 2004**
Halifax, Nova Scotia

Senior Vice-President, Pensions and Group Investments
Responsible for managing the newly created Pension and Group investment business line as well as asset liability management for the total general fund portfolio of $9 billion.

- Developed and implemented strategic vision for new line of business at Maritime Life. Assembled and motivated a multi-functional high calibre 50 member team with capabilities in sales, marketing, product development, financial analysis and reporting, technology and client service.
- Issued new financial product (annuity-backed notes) to the Canadian marketplace, requiring extensive product structuring and initial investor roadshows. This contributed to a doubling of assets under management and significant new business growth for the business line, all while maintaining exceptional levels of employee motivation (100 % employee satisfaction) and client service standards (97 % client satisfaction).

SUN LIFE OF CANADA **May 1987 – September 2001**
Toronto, Ontario

Vice-President, Investments **1999 – 2001**
Responsible for oversight of global investment portfolios of $300 billion as to policy, risk management, asset-liability management and governance.

- Provided thought leadership and implemented value at risk and earnings at risk measures across all Sun Life operations, for which no industry prototype existed. This initiative required both the development of appropriate technical measures as well as securing support from the global organization for consistent reporting across multiple and complex lines of business.

- Designed and implemented major hedging program for risk associated with guaranteed annuity options in the U.K. Delivered "best execution" on £700 million of long-dated receiver swaptions, designed a unique reinsurance contract to share the residual risk between the parent and the subsidiary and secured approval from regulators in advance of demutualization.

Vice-President, Asset Management **1994 – 1998**
Responsible for the asset-liability management of Sun Life's Canadian general fund of $16 billion, with holdings in public bonds, private placements, mortgages, real estate, Canadian and international equity, private equity and derivative strategies.

- Researched, developed and implemented new portfolio structures using derivatives and alternative assets to enhance portfolio returns or hedge product risks. Exceeded internal portfolio benchmarks for new business spreads and total portfolio performance objectives relative to liabilities.
- Championed a new approach to asset-liability management (ALM) at Sun Life whereby the portfolio management function was integrated with marketing, product design, financial pricing and risk management for all Canadian lines of business, with dedicated portfolio managers assigned from the ALM team.

Assistant Vice-President, Pensions (Finance) **1990 – 1993**
Responsible for all financial oversight, including pricing, valuation and reporting, of the Pension Division's assets of $5 – $6 billion.

Director, Pensions (Marketing) **1987 – 1990**
Responsible for all marketing activity, including product development and pricing, for the Pension Division's deposits of $500 – $600 million and new business of $200 – $300 million.

WILLIAM M MERCER **1984 – 1987**
Consulting Actuary

SUN LIFE OF CANADA **1981 – 1984**
Actuarial Student

Education

Queen's University, B.Sc., Biochemistry	**1978**
University of Toronto, M.Sc., Biochemistry	**1981**
Fellow of the Society of Actuaries (FSA)	**1985**
Fellow of the Canadian Institute of Actuaries (FCIA)	**1986**
Chartered Financial Analyst (CFA)	**1999**

Other Professional Experience

Board of Directors (and Treasurer), Canadian Institute of Actuaries (CIA)	**1998–2003**
Board of Directors, Society of Actuaries (SOA)	**2002–2005**
Board of Directors (and Chair), Actuarial Foundation of Canada	**2005-2011**
Member, Actuarial Standards Oversight Council	**2007-2009**
Board of Directors, Pension Investment Association of Canada	**2009–2012**
Board of Directors (and Chair), Toronto Society of Financial Analysts	**2010–2015**
Member, Vice-Chair and Chair, Actuarial Standards Board	**2017-2022**

This is Exhibit **"B"** referred to in the
affidavit of Josephine Marks
Affirmed before me at Toronto in
the Province of Ontario this
19 day of November, 2025.

A Notary in Ontario

McCarthy Tétrault LLP
Suite 2400, 745 Thurlow Street
Vancouver BC V6E 0C5
Canada
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mccarthy tetrault

Jill Yates*
Managing Partner, BC Region | Associée directrice, Région de la colombie-britannique
Direct Line: 604-643-7908
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Personal Law Corporation

Assistant: Edel Macaspac
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November 13, 2025

Via Email (jmarks@eckler.ca)

Eckler Ltd.
5140 Yonge Street
Suite 1700
Toronto ON M2N 6L7

Attention: Josephine E. Marks

Dear Madam:

Re: Geiss Holdings Ltd. v. RBC Life Insurance Company et al.
SCBC Vancouver Registry No. S243397 (the "Action")

We are counsel for RBC Life Insurance dba RBC Insurance and Royal Bank of Canada (collectively, the "**Defendants**") in the Action. We are writing to seek your opinion on matters relating to the plaintiff's application to certify the Action as a class proceeding.

<u>Background</u>

The plaintiff alleges that the Defendants charged "hidden fees" in relation to one of the investment accounts that is available within a universal life insurance product offered by RBC Life known as the Security Fund policy. The plaintiff's allegations are set out in the Notice of Civil Claim, which we have provided to you.

The Defendants deny the allegations and take the position that they have always managed the Security Fund policy, and the investment account at issue, in accordance with the terms of the applicable policy documents. The Defendants' response is set out in the Response to Civil Claim, which we have provided to you.

The plaintiff has filed an application to certify the Action as a class proceeding (the "**Certification Application**"). In support of the Certification Application, the plaintiff has relied upon proposed expert reports from Yves Bergeron and Ryan Wall. We have provided these reports to you, along with the other evidence that the plaintiff is relying upon in support of the Certification Application.

Opinions Sought

We are seeking your opinion on the evidence provided by the plaintiff's proposed experts, Yves Bergeron and Ryan Wall. Unless otherwise defined, capitalized terms below have the meaning given to them in Schedule A.

To help structure your response to these reports, we have asked you a series of questions about topics covered by the plaintiff's experts, set out below. Please answer these questions and, where appropriate, respond directly to the evidence provided by Messrs. Bergeron and Wall.

Universal Life Insurance and Industry Background

1. **Universal Life Policies:** Please explain how a universal life insurance policy works and the role that it plays in financial and estate planning. As part of your answer, please compare universal life insurance policies to other types of insurance, identify the target market in Canada for these policies, explain how policyholders benefit from such policies (including the ways in which they can realize the value of the policies), explain how such policies are distributed to policyholders, and explain how providers of such policies generate revenue and profit. Please also explain the concept of a leveraged life insurance policy.
2. **Investment Options:** What kinds of investment options are offered within a universal life insurance policy? What kind of disclosure is associated with these types of accounts (particularly in relation to the rates credited to, or returns expected to be generated by, those accounts)? Are there potential tax advantages to investing within a universal life insurance policy or leveraged life insurance policy?
3. **Reference Portfolios:** What is a reference portfolio and how does it work?
4. **Fees:** What types of fees or charges are associated with the investment options within a universal life policy?
5. **Historical Context:** Describe the structure and function of the '10/8' leveraged insurance arrangement that was available before 2014, including the potential tax advantages of that arrangement. Explain what changed in the industry around 2013–2014 regarding these types of life insurance arrangements. Please also explain how 10/8 policies, and other types of policies after 2014, could be used as collateral for loans to policyholders.

Methodology

We are seeking your opinion about whether you agree with Mr. Wall's conclusions about causation and quantification of alleged damages suffered by members of the proposed class. To help structure your answer, please consider the questions below.

For these questions, please assume that a “plausible methodology” is one that can show a “common impact” to all holders of the SF Policy invested in the SRIA (the “**Policyholders**”).

In this question, the “Undisclosed Fees” and “Unreported Returns” have the meaning given to them in the expert report of Ryan Wall.

6. **Methodology for Establishing Loss (Causation):** Has the plaintiff's expert identified a plausible methodology that could be used to establish, on a class-wide basis, whether the “Undisclosed Fees” or “Unreported Returns” caused Policyholders to suffer any loss or damage?

7. **Methodology for Individual Damages (Quantification):** Has the plaintiff's expert identified a plausible methodology that could be used to calculate the damages suffered by each individual Policyholder, if any, as a result of the alleged “Undisclosed Fees” or “Unreported Returns”?

Plaintiff Reports

8. If there are other aspects of the reports of Messrs. Wall and Bergeron to which you would like to respond, please do so in response to this question.

<u>Form and Content of Report</u>

Your report must include the following information:

1. **Qualifications**. Please include a description of your professional qualifications and experience, with an emphasis on the matters that qualify you to provide the opinions sought. Please also include a recent curriculum vitae as an appendix to your report.

2. **Role of an expert**. The role of an expert witness is to assist the Court and not to act as an advocate for any party. Your report must comply with the standards required of an expert testifying in the Supreme Court of British Columbia and must include the following certification:

   > "I am aware of the duty of an expert witness to assist the Commission and not assume the role of advocate for any party, and I certify that this report is made in conformity with that duty, and that if called upon to give testimony, I will do so in conformity with that duty."

   It is essential not only that you insert this statement into your report, but that you understand the reason for its inclusion and that the certification is true. While you are retained by the Defendants in the Action, your professional duty is to provide impartial advice and your honestly held opinion to assist the court.

3. **Facts and assumptions**. Please identify any facts and assumptions upon which you rely in forming your opinion. We are instructing you to rely upon the factual assumptions set out at **Schedule A.**

4. **List of documents relied on**. Please list the documents you have relied on for the purpose of arriving at your opinions.

   With this letter, we are providing you with copies of the documents listed at **Schedule B.**

5. **Opinion**: Please provide your opinion on the questions outline in the preceding section.

6. **Multiple Authorship**: You must personally hold all opinions that you express in your report. If you are supported by others in the formation and expression of your opinions, please state that in your report and identify the roles played by others.

Confidentiality

This matter is confidential. Please do not discuss this matter, except with our office or with the client. Any report that you produce should be addressed to this law firm.

There is nothing in this agreement that prevents you from corresponding in a general way with the adverse parties or their counsel on unrelated matters. However, we would suggest that you refrain from doing so unless it is absolutely necessary. Because you have been retained by the client in this lawsuit, all of your dealings with the client and with this firm are privileged and strictly confidential, and you are not at liberty to communicate with any other party or person about those dealings or the services you are providing.

If you receive any communication from any of the adverse parties or their counsel, or from anyone else with respect to this lawsuit, we ask that you contact us immediately before responding.

Privilege

Your file, including all of your notes, working papers, and correspondence, are privileged and not subject to disclosure, until such time as the Rules require us provide them to the adverse parties or a court so orders.

If you have any further questions as to the areas covered above, please do not hesitate to be in touch.

Yours truly,

McCarthy Tétrault LLP

Jill Yates*

Schedule A
List of Assumed Facts

1. RBC Life Insurance Company ("**RBC Life**") is the underwriter of the Security Fund universal life insurance policy ("**SF Policy**"), which was distributed exclusively through PPI Management Inc. ("**PPI**"), a managing general agent, and its network of independent insurance advisors. RBC Life did not sell the SF Policy directly to policyholders.

2. The SF Policy was marketed primarily to high net-worth individuals with sophisticated planning objectives, typically supported by a team of insurance, tax, and legal advisors.

3. Prior to 2014, many policyholders used the SF Policy as part of a "10/8" leveraged insurance arrangement. These types of arrangements were attractive to high net worth individuals because they provided significant tax advantages. The tax advantages included, among other things, the potential deductibility of interest on a loan secured against the policy, and tax-deferred growth within the policy.

4. Legislative changes to the *Income Tax Act* in 2013 altered the tax treatment of 10/8 arrangements. In response, RBC Life worked with PPI to create a new investment account within the SF Policy, known as the Smoothed Return Investment Account (the "**SRIA**"), and to provide new leveraging options to policyholders.

5. The SRIA was introduced through an endorsement to the SF Policy that was effective January 1, 2014 (the "**SRIA Endorsement**"). The SRIA, when combined with a loan from RBC Life or a third-party lender, would allow policyholders to preserve some of the leveraged life insurance benefits that they had received under the 10/8 arrangement, while remaining compliant with the new provisions of the *Income Tax Act*.

6. SF policyholders were not required to participate in the SRIA. Further, SF policyholders who opted to deposit money into the SRIA were not required to borrow money from RBC Life. Following the 2013 changes to the *Income Tax Act*, policyholders that wanted to maintain the use of their SF Policy for leveraging purposes had three options, stated generally: (a) retain their 10/8 arrangement and risk higher taxes; (b) unwind their 10/8 arrangement; or (c) transition to the SRIA.

7. Policyholders of the SF Policy can select from multiple investment options within the SF Policy, including the SRIA, Fixed Rate Investment Account, Managed Investment Account, and Managed Portfolio Investment Account. Not all policyholders choose the same investment options or allocations, and no policyholder is required to invest in – or stay invested in – the SRIA.

8. SF policyholders who are or were invested in the SRIA are defined as the "**Policyholders**".

9. Policyholders of the SF Policy can use the policy's cash value as collateral for loans. Those loans may be provided by RBC Life or by a third-party lender. Since 2014, Policyholders could access two main types of loans from RBC LIfe: the Credit Facility and the Annual Rate Policy Loan. The former is provided through a separate agreement, and the latter is provided for in the policy wording. The terms and conditions of these loans are different, and they may be subject to different tax treatment.

10. The interest rates for the Credit Facility and Annual Rate Policy Loan are tied to the SRIA credited rate, plus a fixed spread (1.65%), plus or minus the smoothing adjustment factor.

11. The SRIA is a contractual investment account within the SF Policy. Holders of the SF Policy that are invested in the SRIA have certain contractual rights, including the right to receive a credited rate of interest in the SRIA.

12. The credited rate of the SRIA is set annually by RBC Life and is determined using the cumulative returns (net of RBC Life's management fee) of a reference portfolio, known as the Smoothed Return Reference Portfolio ("**SRRP**").

13. The credited rate for the SRRP is subject to a discretionary smoothing process, which is designed to limit the volatility of the rate credited to the SRIA by bringing the yearly gains or losses of the SRRP into the crediting rate over time. RBC Life guarantees that the annual credited rate for the SRIA will never be below 0%, even if the net performance of the SRRP for a particular year is less than 0%. As a result of the fact that the crediting rate is set annually in advance, and also because of the smoothing process, the rate credited to the SRIA in any given year may be more or less than the actual net returns of the SRRP in that year.

14. Policyholders do not own the assets of the SRRP, directly or indirectly. The SRRP is a reference portfolio, and RBC Life has discretion over the composition of the SRRP.

15. The SRRP has two main components: a leveraged component and a non-leveraged component. The leveraged component is based on the returns of a notional portfolio of Credit Facility loans and Annual Rate Policy Loans provided to Policyholders. The non-leveraged component is based on the returns of the RBC Select Conservative Portfolio (Series A), an investment fund managed by RBC Global Asset Management ("GAM"). A small portion (<1%) of the SRRP is referenced to the GAM Short Term Income Fund, Series A, and at any given time, there is a very small amount (<.1%) of cash in the SRRP, representing daily cash flows to notionally account for transfers and withdrawals.

16. In determining the net returns of the SRRP in a given year, RBC Life applies a management fee to the value of the SRRP. Under the SF Policy, that management fee can be within the range of 1.50% to 2.25% per annum, at the discretion of RBC Life. At all times, RBC Life has applied a management fee to the SRRP that is within this range.

17. In most circumstances, when policyholders realize the value of their SRIA (e.g., through withdrawals or transfers), a market value adjustment ("**MVA**") applies. In general terms, the MVA is designed to ensure that the value of the SRIA delivered to the policyholder reflects the actual performance of the SRRP, net of RBC Life's management fee, over the relevant holding period.

18. If the credited rate applied to the SRIA has exceeded the SRRP's cumulative performance over the relevant period, the MVA reduces the amount owing to the policyholder; if the SRRP has outperformed the credited rate, the MVA increases the amount owing to the policyholder.

19. The MVA does not apply when the value of the SRIA is paid out as part of the life benefit upon the death of the Policyholder.

20. The impact of the MVA is individualized, because it depends on each policyholder's investment history, the timing and amount of deposits and withdrawals, and the manner in which SRIA value is being realized, among other things.

Schedule B
List of Documents Provided

1. **Pleadings**
    a. Notice of Civil Claim
    b. Response to Civil Claim
2. **Plaintiff Fact Affidavits for Certification**
    a. Affidavit #1 of Wayne Stone
    b. Affidavit #1 of Bernie Geiss
    c. Affidavit #1 of Kristin Apan
3. **Plaintiff Expert Affidavits for Certification**
    a. Affidavit #1 of Yves Bergeron
    b. Affidavit #1 of Ryan Wall
4. **Defendants' Fact Affidavit for Certification**
    a. Affidavit #1 of Maria Winslow (unsworn)

This is Exhibit **"C"** referred to in the affidavit of Josephine Marks
Affirmed before me at Toronto in the Province of Ontario this 19 day of November, 2025.

A Notary in Ontario

NOTARY PUBLIC ONTARIO

Geiss v. RBC Life et. al

Expert Report for Certification

Josephine Marks, FSA, FCIA, CFA

November 19, 2025

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Table of Contents

Introduction

This report is provided in response to a letter of instruction from McCarthy Tétrault LLP, which is attached at Exhibit B to my affidavit of November 19, 2025. The use of this report may not be suitable for any other purpose.

This report is provided by Josephine E Marks, FSA, FCIA, CFA whose qualifications and credentials are provided below. In the preparation of this report, I received support and advice from other senior personnel in the life insurance practice at Eckler Ltd in the formation and expression of the opinions set out in this report. These individuals included Marie-Andrée Boucher, FSA, FCIA and Matthew Didier, FSA, FCIA. Notwithstanding the support provided by these personnel, I personally hold and stand behind the opinions expressed in this report.

This work has been undertaken in accordance with accepted actuarial practice in Canada.

Expert Witness Declaration

I am aware of the duty of an expert witness to assist the Court and not assume the role of advocate for any party, and I hereby certify that this report is made in conformity with that duty, and that if called upon to give testimony, I will do so in conformity with that duty.

Qualifications

Josephine joined the Financial Services practice of Eckler Ltd. in 2012. She has over thirty years of financial sector experience, with previous employment with two major Canadian insurance companies, a major public sector pension plan and a major Canadian bank.

Josephine has extensive experience with the financial aspects of insurance and pensions, with a focus on valuation and financial reporting, asset-liability management, risk management, capital management, product design and development and governance. Her work experience covers a wide range of life insurance and investment products.

Josephine currently serves as the Appointed Actuary for four Canadian life insurance companies and six Caribbean life insurance companies. Other consulting experience includes independent peer reviews for life insurers, advice on appraisals, mergers and acquisitions, pricing and product development, independent actuarial reviews

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(including advice on potential litigation matters), ALM reviews and advising financial institutions on implementing international financial reporting standards (IFRS17).

Josephine has previously served on the boards of the CIA and of the SOA, as Secretary-Treasurer of the CIA, as a member of the Actuarial Standards Oversight Council and as Chair of the Actuarial Foundation of Canada. She is a Past President of the Toronto CFA Society and recently completed a term as Chair of the Actuarial Standards Board (ASB).

Professional Designations

- Fellow, Canadian Institute of Actuaries (1985)
- Fellow, Society of Actuaries (1985)
- Chartered Financial Analyst (1999)

Education

- Queen's University, B.Sc. (Honours, Biochemistry)
- University of Toronto, M.Sc. (Biochemistry)

Facts and Assumptions

We have relied upon the list of assumed facts in Schedule A of the Expert Instructions document provided by McCarthy Tétrault LLP, the counsel for RBC Life. That list has been reproduced in this report in Appendix A.

Documents Relied upon by Eckler

We have relied upon the files provided by McCarthy Tétrault LLP and listed in Schedule B of the Expert Instructions document provided by McCarthy Tétrault LLP. That list has been reproduced in this report in Appendix B.

Scope of the Work

McCarthy Tétrault LLP, counsel for the Defendants, has requested our opinion on the evidence provided by the plaintiff's proposed experts, Yves Bergeron and Ryan Wall. Specifically, McCarthy has asked a series of questions about topics covered by the plaintiff's experts. We have answered these questions below. Within this framework, there were no limitations or constraints applicable to our work.

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Response to Questions

Universal Life Insurance and Industry Background

<u>**Question 1**</u>

Universal Life Policies: *Please explain how a universal life insurance policy works and the role that it plays in financial and estate planning. As part of your answer, please compare universal life insurance policies to other types of insurance, identify the target market in Canada for these policies, explain how policyholders benefit from such policies (including the ways in which they can realize the value of the policies), explain how such policies are distributed to policyholders, and explain how providers of such policies generate revenue and profit. Please also explain the concept of a leveraged life insurance policy.*

Response to Question 1

Introduction to UL and Comparison to Other Forms of Life Insurance

Universal life (UL) policies are hybrid insurance products which combine traditional permanent life insurance coverage with investment vehicles (investment accounts) which allow the policyholder to invest additional amounts in the policy, on a tax deferred basis, up to certain limits according to tax regulations.

Universal life, as with other forms of permanent life insurance, is often used for estate planning purposes. The tax-free death benefit may be used to pay estate taxes on death, provide an inheritance to the beneficiary, facilitate business succession, or for charitable donations.

Universal life differs from other forms of permanent life insurance in its premium flexibility and potential for investment income growth, leading to differences in the target market and potential value to the policyholder. Term life insurance provides life insurance protection over the term of the coverage, with the premiums covering the cost of insurance each year so that there is no investment build-up or cash surrender value upon termination. Conversely, whole life coverage typically has higher fixed premiums which exceed the expected mortality costs in the early durations of the policy. These policies offer additional features such as cash surrender value upon lapse or surrender, increases in the face amount of the policy over time, or (for participating policies) the payment of dividends. Unless they are terminated, these policies typically offer coverage for the entire policyholder lifetime.

Flexible Premiums and Policy Funding

Universal life is unique compared to other types of life insurance as it is the only type of coverage that allows for an explicit tax-deferred investment build-up of excess premium amounts at the policyholder's discretion. Policyholder premiums paid into the UL policy are flexible in both timing and amount. The total premium, net of premium taxes, is deposited in the UL policy into the various investment accounts selected by the policyholder. The cost of insurance charge (COI) is paid through automatic withdrawals from the investment accounts each year.

The additional investment accounts within a universal life policy allow for tax-efficient investment accruals up to a maximum defined by tax regulations. Provided the amounts invested in the investment accounts are sufficient to cover the COI, the policy remains in force. Lapse would typically only occur if the amounts in the investment accounts are exhausted or the policyholder explicitly surrenders the coverage.

Value to the Policyholder

The value of a UL policy can be realized in several different ways over the life of the contract.

- **Death Benefit** – A tax-free death benefit (referred to in the RBC Life policy as a life benefit) is paid upon death of the insured. The death benefit payable takes different forms, being some combination of a pre-determined face amount and the amount in the investment accounts. For example, the death benefit may be the greater of these two amounts, the sum of these two amounts or may incorporate some form of indexation of the benefit. Other formats are also possible. Note that regardless of the type of death benefit paid, it is not subject to any tax to the beneficiaries or estate of the insured.
- **Liquidity** – During the policyholder's lifetime, value can also be accessed through full surrender, partial withdrawals, liquidity through policy loans, or assignment of the policy as collateral for a loan. Insurers may apply surrender charges on surrender and partial withdrawal. The cash proceeds on surrender or partial withdrawal are subject to taxation but may still provide a tax advantage to the policyholder if they are in a lower tax bracket than when the policy was accumulating gains.
- **Leverage (Collateral/Security for Loan)** – Policyholders can use the cash value of their UL policy as security for a loan and use that loan for

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other investment purposes. The interest on the loan is tax deductible assuming the investment meets the Income Tax Act requirements for loan interest deductibility. This strategy is detailed further in Question 2.

Target Market and Distribution

The unique features of universal life insurance have a bearing on the types of policyholders who purchase this type of insurance. Generally, universal life is purchased by wealthier (high net worth) individuals and/or those who are more sophisticated. In particular, the product is a preferred vehicle for those seeking to take advantage of the tax-sheltered investment accruals within the investment accounts for estate planning or as part of an overall financial planning strategy. Typically, these individuals may have already made maximum use of other tax effective vehicles such as RRSPs and TFSAs. (Additional tax advantages were conferred by the 10/8 policy structure, as discussed in the response to Question 5 below).

The insurer manufactures UL products and provides the systems and infrastructure to support sales of those products. Universal life products are typically sold to clients through licensed insurance sales agents (often referred to as brokers). Unlike mutual funds, there are no additional qualifications required to sell universal life (vis-à-vis other life insurance products). The insurance company relies on the agents to assess the suitability of the product for their clients. The agent is expected to conduct a needs analysis for each prospective client, explain illustrations of the policy under different economic scenarios, compare alternative investment vehicles such as TFSA and RRSP, and conduct ongoing reviews of the policy to ensure appropriate funding levels and overall appropriateness.

Revenue and Profit to the Insurer

Insurance providers generate revenue and profit from universal life through traditional insurance margins where the premiums charged to the policyholder exceed the expected cost of the insurance. These additional margins serve two purposes – providing an appropriate level of return on capital for the capital required to be held by the insurance company to support the product under regulatory requirements and providing a buffer against unfavourable experience. For universal life products, the insurer may generate additional revenue and profit from the investment fees on the investment accounts and investment gains from differences between the contractual credited rate (which may take various forms) and the actual returns on the funds that are invested by the company. The company may choose to take more (or less) risk when investing funds to support the contractual credited rate.

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Question 2

***Investment Options**: What kinds of investment options are offered within a universal life insurance policy? What kind of disclosure is associated with these types of accounts (particularly in relation to the rates credited to, or returns expected to be generated by, those accounts)? Are there potential tax advantages to investing within a universal life insurance policy or leveraged life insurance policy?*

Response to Question 2

UL Investment Options

Investment options for UL investment accounts include a wide range of possibilities. These include fixed interest rates on the amounts deposited in the investment accounts (i.e., guaranteed investment certificates where the credited interest rates are guaranteed by the insurance company offering the investment options) as well as a variety of market-based funds such as money market funds, bond funds, or equity funds. Note that due to the sophistication of the typical marketplace for these insurance products, more complex investment options may also be provided, including other asset types or combination products offering a variety of investment features.

The investments supporting the investment accounts all sit within the insurance company's general account. A prudent insurer would have an investment strategy that closely matched the returns that are being credited to the policyholder. Guaranteed investments, where the insurance company is guaranteeing the interest rate credited on the account, are typically invested in low-risk fixed-income assets. Conversely, variable return investments where the returns are linked to a market-based investment option and for which the insurance company is not providing any form of guarantee will typically be invested in the type of asset or fund which underlies the determination of the market-based return. It is important to note that in both cases, the actual investment strategy and execution is the company's responsibility and the company has full discretion over how funds are invested. Their obligation to the policyholder is dictated by the terms and conditions in the contract provided to the customer but the customer does not own the assets nor any units of a fund in which the company may invest for any of the UL investment accounts.

Note that this structure differentiates universal life investment accounts from other investments offered by the insurance industry or mutual fund industry where the customer has direct ownership of assets or holds units in funds. Standalone investment products for the insurance industry, such as segregated funds with and without guarantees, are invested in segregated accounts whereas the investment accounts for universal life are held in the insurance company's general fund.

Disclosures

A life insurance company will typically provide disclosures through materials such as copies of contracts (including the life insurance application), policy forms, policy illustrations, periodic statements, and ad hoc correspondence with policyholders from time to time. The level and type of disclosure is based on market comparisons and policyholder expectations. We are not aware of any statutory disclosure requirements specific to UL policies. This contrasts with the mutual fund industry, where securities regulations dictate extensive and specific disclosure requirements such as a prospectus and fact sheets.

Tax Advantages

The tax advantages on UL exist for several difference aspects of the policy:

- **Death Benefits**: The death benefit payable on death is tax-free, including any death benefit arising from the investment income growth of the UL investment accounts. Death benefits can take several different forms based on the policy terms as described in Question 1.
- **Surrenders and Withdrawals**: The investment income on the investment accounts accrues tax-free while the policy is in force. When a policyholder surrenders the policy for its cash value, the investment growth less an amount for the cost of insurance becomes taxable to the policyholder. This may still be advantageous from a tax perspective if the policyholder is in a lower tax bracket than when the investment income was accrued.
- **Leveraged Policy**: A policyholder who borrows funds using the UL policy as collateral and uses the borrowed funds for investment purposes may deduct the loan interest for tax purposes. The policyholder would have to ensure compliance with the Income Tax Act, similar to any other loan used for this purpose. A portion of the UL premiums may also qualify as tax deductions if they meet the specific conditions of section 20(1)(e.2) of the Income Tax Act, with the primary condition being that the collateral assignment is a *requirement* of the financial institution providing the loan.

Question 3

Reference Portfolios: *What is a reference portfolio and how does it work?*

Response to Question 3

In general terms, a reference portfolio is any representative set of assets that can be used as a benchmark for some purpose, such as setting return parameters,

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determining credited rates, or comparing performance against other funds. A reference portfolio can be a notional mix of asset types, market indices, or other parameters.

As an example, an investment which derived its return parameters from a reference portfolio would determine its rate of return from the observed return of the reference portfolio – its return would typically be equal to, or proportional to, the return of the reference portfolio. There would not necessarily be a one-to-one correspondence, but the returns of the investment and the reference portfolio would typically be directionally consistent.

Question 4

Fees: *What types of fees or charges are associated with the investment options within a universal life policy?*

Response to Question 4

Fees and charges earned by the company providing the universal life investment options could include any or all of the following:

(i) Deposit Loads

- A fee deducted from a policyholder's deposit, typically expressed as a percentage of the deposit to cover premium tax.

(ii) UL investment account management fees

- These are explicit fees charged by the UL policy for the management of the overall investment account. These fees vary by investment account and are typically expressed as a portion of the total account in basis points (bps).

(iii) Market Value Adjustment (MVA)

- An MVA may be applied when a policyholder withdraws funds from a policy or transfers funds between investment accounts. MVAs typically apply to investment accounts where the return relies on a long-term or specified term of investment, such as a guaranteed interest account.

The fees mentioned above are within the control of the insurance company and are contractual in nature. These fees are disclosed to the policyholder as part of the policy material provided and may be subject to change within specified limits within the contract.

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For specific investment accounts that are based on the performance of managed funds, the returns from that fund used in setting credited rates would typically be net of the fund MER (management expense ratio). The MER is the total fee charged on the managed fund by the fund manager. These implicit fees are outside the control of the insurance company as they are set by the external fund manager. The explicit UL investment account management fees would still be applied.

<u>Question 5</u>

Historical Context: *Describe the structure and function of the '10/8' leveraged insurance arrangement that was available before 2014, including the potential tax advantages of that arrangement. Explain what changed in the industry around 2013–2014 regarding these types of life insurance arrangements. Please also explain how 10/8 policies, and other types of policies after 2014, could be used as collateral for loans to policyholders.*

Response to Question 5

10/8 Strategy Before 2014

The 10/8 strategy was marketed as a tax-efficient arrangement for policyholders to take advantage of the tax deductibility of interest on loans when funds are borrowed for the purpose of investing. The strategy involved the following steps:

- Purchase of a universal life (UL) policy that was designed explicitly to make use of this tax effective strategy.
- Deposit funds into the UL policy up to the tax-exempt maximum earning a guaranteed 8% on a tax-deferred basis.
- Borrow funds at a rate of 10% from the insurer or related company, using the UL policy as collateral. Note that the maximum borrowing limit would be subject to the policy's cash value, which may grow over time.
- Invest the proceeds according to the conditions required by the Income Tax Act to qualify for loan interest deductibility for tax purposes.

If the purpose of the loan met the specific conditions of the Income Tax Act, the interest on that loan was tax deductible to the policyholder. This reduced the borrowing cost to be below the amount earned within the UL investment account. The policyholder does not necessarily have to repay the principal on the loan as the loan will be repaid with the tax-free death benefit of the policy on death.

Example of 10/8

- $100,000 is deposited in the 10/8 Investment Account

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- The tax-deferred guaranteed return on the investment account is 8%, or $8,000
- The loan interest is 10%, or $10,000
- Assuming a marginal tax rate of 50%, the maximum tax deduction on loan interest is $5,000, for a net borrowing cost of $5,000.
- The net economic benefit to the policyholder is $8,000 - $5,000 = $3,000
- This economic benefit is guaranteed (risk-free) assuming the policyholder continues to be able to utilize the interest deduction for tax purposes.
- In addition to the 3% return, the policyholder benefits from the investment income on the loan proceeds.

Tax Changes Targeting the 10/8 Structure

In 2013, the federal budget targeted 10/8 arrangements and eliminated the interest deductibility for such policies. The government concluded that the 10/8 investments were only being undertaken so as to achieve a tax benefit and therefore lacked economic substance. The government defined 10/8 policies as those which had the following features:

- The return credited on the investment was determined solely by reference to the rate of interest on the loan, and the return would not be credited to the account if the loan were not in existence.
- The maximum amount of the investment was determined by reference to the amount of the loan.

Complying with 2014 Tax Changes

In order to offer leveraged UL strategies while still complying with the 2014 tax changes, insurance companies had to modify the leveraging options. This included removing the dependency of the credited rate on the rate of the loan and allowing the investment account to be used by all policyholders, regardless of the amount borrowed, if any.

It is our understanding that RBC Insurance modified the leveraging structure for the UL product by introducing the Smoothed Return Investment Account (SRIA) and made this account available for general investment without a requirement for a corresponding policy loan.

Methodology

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Question 6

Methodology for Establishing Loss (Causation): *Has the plaintiff's expert identified a plausible methodology that could be used to establish, on a common or class-wide basis, whether the "Undisclosed Fees" or "Unreported Returns" caused Policyholders to suffer any loss or damage?*

Response to Question 6

No, a plausible methodology has not been identified that can be used to assess whether policyholders suffered damages on a class-wide basis.

The methodology described by the plaintiff's expert proposes a recalculation of the value of the SRRP (smoothed return reference portfolio) using alternate rates of return. The proposed aggregate loss is calculated as the accumulated value of the difference between the fund using the actual rates of return and the fund using the alternate rates of return.

The determination of causation of any loss suffered by a policyholder depends on the unique circumstances for each policyholder. These circumstances include the manner and timing in which the policyholder may have realized value from the plan either through death, surrender, and/or utilization of leverage against the policy. In addition, the credited rate determined by RBC involved a level of discretion. These are described in more detail below.

Individual Policyholder Use of Leverage (Loans from a credit facility or the Annual Rate Policy Loan)

There is an explicit and deliberate link between the return on the investment account and the interest rate charged on loans from the credit facility or Annual Rate Policy Loan. Any increase in the return of the investment account would likely have led to a corresponding increase in the loan interest rate so as to keep the "spread" between these two items relatively constant. There would not be a direct causation between revisions to the investment account returns and losses to the policyholder as these amounts would be offsetting. Each individual policyholder may be utilizing leverage at different levels between using no leverage and using the maximum leverage allowed by the policy. There would also be differences in each policyholder's utilization over time as they pay down principal or take out additional loan amounts.

RBC Credited Rate Methodology

The SRIA rate determination included elements of smoothing with fixed rates being applied for the first five years. Any revision to the return calculation (e.g. to reflect

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changes in the level of fees) would have to be considered within the context of how it would have affected the overall tax effectiveness of the policy structure and would not necessarily lead to a one-to-one difference in the stated return of the SRRP fund. In addition, any change in the historic returns of the SRRP, whether through changes in fees or otherwise, might also have affected the company's determination of the fixed rate in the first five years and in the determination of the smoothing adjustment.

Individual Policyholder Behaviour and Timing

Since the value of the investment accounts plays a part in determining the cost of insurance and resulting death benefit coverage amounts throughout the coverage period, any revision to the value of the investment accounts could have a different impact on different policyholders and may or may not result in any losses. These differences are discussed in greater detail in the response to Q7 below.

For example, any policyholders who died during the 5-year fixed-rate period from 2014 to 2019 would not be impacted at all by any change to the notional return of the SRRP. This is because the credited rate is fixed and there is no market value adjustment applied on death.

Tax Exempt Status

Any changes to the value of the investment accounts could also affect the tax status of the policy, which is unique to each policyholder's circumstance. As noted in the response to Q1, one of the key aspects of universal life policies is their appeal as a tax effective investment and these policies are often managed so as to maximize the tax efficiency of the coverage. Even a modest retroactive change in the value of the investment account could affect the tax status of the policy, whereby any changes would not cause loss or damage on a common or class-wise basis.

Question 7

Methodology for Individual Damages (Quantification): *Has the plaintiff's expert identified a plausible methodology that could be used to calculate the damages suffered by each individual Policyholder, if any, as a result of the alleged "Undisclosed Fees" or "Unreported Returns"?*

Response to Question 7

No, a plausible methodology has not been identified that can be used to calculate damages suffered by each individual policyholder.

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The methodology identified by the plaintiff's expert describes a calculation of aggregate damages to be allocated to policyholders. This methodology is not appropriate for this UL product. There are several factors which make the application of this methodology inappropriate within the context of an investment account which is linked to a universal life insurance policy:

(i) As noted in the response to Q6 above, the amount to be allocated to each individual policyholder is not simply a function of the alternative investment return applicable to the SRRP during the period in question, but is also a function of its impact on the features of the universal life insurance policy, affecting issues such as the cost of insurance, policy splits upon marriage breakdown, and downstream effects related to transfers of investment amounts to other investment funds.

(ii) Determination of an alternative value for each policy's investment account may also affect death benefit values and termination values for any policies which terminated due to a death claim or surrender during the period in question. Death benefits may vary based on the value of the investment account at the time of death and surrender values at the time of lapse may be affected by the propensity of the policy to lapse based on the buffer funds available in the investment account prior to non-payment of premium.

(iii) In our experience, the determination of remediation amounts arising from any revisions to returns for universal life investment accounts needs to be undertaken on a seriatim basis as they differ by policyholder depending on the policy features affected by such revisions.

(iv) Changes in the value of the investment account would also potentially affect the tax status of the policy overall, which would also need to be remediated on a case-by-case basis.

(v) The interest rate on loans from the Credit Facility and Annual Rate Policy Loan is also linked to the base interest rate for the SRIA. Any increase in the SRIA credited rate would also increase the borrowing costs to the policyholders. The impact to each policyholder would vary depending on their utilization of the policy loan option. A policyholder utilizing the maximum loan availability would not be materially impacted as they would be credited returns from the SRIA and pay loan interest based on the SRIA, net of a 1.65% contractual spread.

(vi) Finally, from a practical perspective, in our experience, it is very unusual for companies to have maintained administrative records of individual policies for extended periods of time, due to systems upgrades and database conversions. In previous experience working with companies attempting to adjust historic rates of returns for universal life investment accounts, records have been

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incomplete and many approximations needed to be made, including limitations on how far back in time such adjustments would be applied.

Plaintiff Reports

Question 8

If there are other aspects of the reports of Messrs. Wall and Bergeron to which you would like to respond, please do so in response to this question.

Response to Question 8

To the extent that any aspects of the results for this potential litigation revolve around the definition and understanding of what constitutes an insurance company's "general fund", we would note that the supplementary information provided by the plaintiff's expert in this regard is quite misleading and, in parts, incorrect.

While it is correct to state that the general funds constitute the general investment account that contains the assets supporting the general obligations of an insurance company, other aspects of the plaintiff's expert testimony in this regard are inaccurate.

To be specific:

(i) General fund portfolios follow a variety of investment strategies and are non-homogeneous in nature. They may be segmented to reflect different categories of obligations for which customized investment strategies are applied or they may be managed in aggregate (or split between assets backing obligations and surplus assets).

(ii) The rate of return for a company's general fund would not typically be determined per se. Furthermore, any such calculation would be quite complex, given the large volume of transactions and activity within an insurer's general fund.

(iii) Even if such rates of return could be readily determined, the rates of return for general funds for other insurance companies would not constitute a reasonable approximation for the rate of return for the RBC general funds. Each insurance company has a unique business profile and a unique combination of assets comprising the general funds. The insurance liabilities and the assets backing those liabilities are by no means uniform or similar across the industry.

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Appendix – Schedule A

1. RBC Life Insurance Company ("RBC Life") is the underwriter of the Security Fund universal life insurance policy ("SF Policy"), which was distributed exclusively through PPI Management Inc. ("PPI"), a managing general agent, and its network of independent insurance advisors. RBC Life did not sell the SF Policy directly to policyholders.

2. The SF Policy was marketed primarily to high net-worth individuals with sophisticated planning objectives, typically supported by a team of insurance, tax, and legal advisors.

3. Prior to 2014, many policyholders used the SF Policy as part of a "10/8" leveraged insurance arrangement. These types of arrangements were attractive to high net worth individuals because they provided significant tax advantages. The tax advantages included, among other things, the potential deductibility of interest on a loan secured against the policy, and tax-deferred growth within the policy.

4. Legislative changes to the Income Tax Act in 2013 altered the tax treatment of 10/8 arrangements. In response, RBC Life worked with PPI to create a new investment account within the SF Policy, known as the Smoothed Return Investment Account (the "SRIA"), and to provide new leveraging options to policyholders.

5. The SRIA was introduced through an endorsement to the SF Policy that was effective January 1, 2014 (the "SRIA Endorsement"). The SRIA, when combined with a loan from RBC Life or a third-party lender, would allow policyholders to preserve some of the leveraged life insurance benefits that they had received under the 10/8 arrangement, while remaining compliant with the new provisions of the Income Tax Act.

6. SF policyholders were not required to participate in the SRIA. Further, SF policyholders who opted to deposit money into the SRIA were not required to borrow money from RBC Life. Following the 2013 changes to the Income Tax Act, policyholders that wanted to maintain the use of their SF Policy for leveraging purposes had three options, stated generally: (a) retain their 10/8 arrangement and risk higher taxes; (b) unwind their 10/8 arrangement; or (c) transition to the SRIA.

7. Policyholders of the SF Policy can select from multiple investment options within the SF Policy, including the SRIA, Fixed Rate Investment Account, Managed Investment Account, and Managed Portfolio Investment Account. Not all policyholders choose the same investment options or allocations, and no policyholder is required to invest in – or stay invested in – the SRIA.

8. SF policyholders who are or were invested in the SRIA are defined as the "Policyholders".

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9. Policyholders of the SF Policy can use the policy's cash value as collateral for loans. Those loans may be provided by RBC Life or by a third-party lender. Since 2014, Policyholders could access two main types of loans from RBC LIfe: the Credit Facility and the Annual Rate Policy Loan. The former is provided through a separate agreement, and the latter is provided for in the policy wording. The terms and conditions of these loans are different, and they may be subject to different tax treatment.

10. The interest rates for the Credit Facility and Annual Rate Policy Loan are tied to the SRIA credited rate, plus a fixed spread (1.65%), plus or minus the smoothing adjustment factor.

11. The SRIA is a contractual investment account within the SF Policy. Holders of the SF Policy that are invested in the SRIA have certain contractual rights, including the right to receive a credited rate of interest in the SRIA.

12. The credited rate of the SRIA is set annually by RBC Life and is determined using the cumulative returns (net of RBC Life's management fee) of a reference portfolio, known as the Smoothed Return Reference Portfolio ("SRRP").

13. The credited rate for the SRRP is subject to a discretionary smoothing process, which is designed to limit the volatility of the rate credited to the SRIA by bringing the yearly gains or losses of the SRRP into the crediting rate over time. RBC Life guarantees that the annual credited rate for the SRIA will never be below 0%, even if the net performance of the SRRP for a particular year is less than 0%. As a result of the fact that the crediting rate is set annually in advance, and also because of the smoothing process, the rate credited to the SRIA in any given year may be more or less than the actual net returns of the SRRP in that year.

14. Policyholders do not own the assets of the SRRP, directly or indirectly. The SRRP is a reference portfolio, and RBC Life has discretion over the composition of the SRRP.

15. The SRRP has two main components: a leveraged component and a non-leveraged component. The leveraged component is based on the returns of a notional portfolio of Credit Facility loans and Annual Rate Policy Loans provided to Policyholders. The non-leveraged component is based on the returns of the RBC Select Conservative Portfolio (Series A), an investment fund managed by RBC Global Asset Management ("GAM"). A small portion (<1%) of the SRRP is referenced to the GAM Short Term Income Fund, Series A, and at any given time, there is a very small amount (<.1%) of cash in the SRRP, representing daily cash flows to notionally account for transfers and withdrawals.

16. In determining the net returns of the SRRP in a given year, RBC Life applies a management fee to the value of the SRRP. Under the SF Policy, that management

fee can be within the range of 1.50% to 2.25% per annum, at the discretion of RBC Life. At all times, RBC Life has applied a management fee to the SRRP that is within this range.

17. In most circumstances, when policyholders realize the value of their SRIA (e.g., through withdrawals or transfers), a market value adjustment ("MVA") applies. In general terms, the MVA is designed to ensure that the value of the SRIA delivered to the policyholder reflects the actual performance of the SRRP, net of RBC Life's management fee, over the relevant holding period.

18. If the credited rate applied to the SRIA has exceeded the SRRP's cumulative performance over the relevant period, the MVA reduces the amount owing to the policyholder; if the SRRP has outperformed the credited rate, the MVA increases the amount owing to the policyholder.

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Appendix – Schedule B

1. **Pleadings**
    - **a.** Notice of Civil Claim
    - **b.** Response to Civil Claim
2. **Plaintiff Fact Affidavits for Certification**
    - **a.** Affidavit #1 of Wayne Stone
    - **b.** Affidavit #1 of Bernie Geiss
    - **c.** Affidavit #1 of Kristin Apan
3. **Plaintiff Expert Affidavits for Certification**
    - **a.** Affidavit #1 of Yves Bergeron
    - **b.** Affidavit #1 of Ryan Wall
4. **Defendants' Fact Affidavit for Certification**
    - **a.** Affidavit #1 of Maria Winslow (unsworn)