This Q&A Factsheet has been provided by IFA Limited, a firm of Independent Financial Advisors located in Bolton, whose services include pension advice.

Q & A FACTSHEET

What will my Lifetime Allowance be if I apply for Fixed Protection?

If you have Fixed Protection, your Lifetime Allowance will then be fixed at £1.8 million rather than the 'standard' Lifetime Allowance of £1.5 million which is to apply from 6 April 2012.

If, in the future, the 'standard' Lifetime Allowance is increased above £1.8 million, your Fixed Protection will stop and your Lifetime Allowance will then be the higher 'standard' Lifetime Allowance.

Can I apply for Fixed Protection?

If you do not already have either Primary Protection or Enhanced Protection under the 'transitional provisions' which applied following the introduction of Pensions Simplification from 6 April 2006, you can then apply for Fixed Protection. You do not need to have already built up pension savings of more than £1.5 million to apply. In order to apply for Fixed Protection, you will therefore need to meet the following conditions as at 6 April 2012.

- You are a member of a 'Registered Pension Scheme' such as a Small Self-Administered Scheme (SSAS) or a Self-Invested Personal Pension (SIPP) **and**
- You do **not** have **either** Primary Protection **or** Enhanced Protection.

What are the conditions for Fixed Protection?

In order to keep Fixed Protection, you

- Cannot join a new pension scheme other than to accept a transfer of existing pension rights.
- Cannot have 'benefit accrual'. Accordingly, if you, your employer or someone else (on your behalf) makes contributions to **any** Money Purchase arrangement, such as a SSAS

or a SIPP, you will then lose Fixed Protection. Fixed Protection will also be lost if you build up additional benefits under **any** Defined Benefit [sometimes called a 'Final Salary'] arrangement.

If you break one of these conditions, you will then lose your Fixed Protection. Please note that it is **your** responsibility to inform HM Revenue & Customs if you lose Fixed Protection.

Also, in view of the second restriction, you will normally need to stop building up benefits under **every** pension scheme that you belong to by 5 April 2012. It is therefore important that you give your Professional Adviser, Pension Provider or Scheme Administrator enough notice if you want to stop your 'active' membership. If you leave this notification to the last minute, your contributions and/or benefit accrual may not cease before 6 April 2012 and you will lose Fixed Protection.

The only exception to the continuation of contributions to a Money Purchase arrangement is in relation to premiums made to life assurance policies providing death benefits **only** that were in place before 6 April 2006. In such cases, there is a contractual obligation on the insurer to maintain cover for a pre-determined period provided that a fixed premium is paid throughout the term. If you have a policy providing life assurance cover on this basis in connection with your pension scheme, Fixed Protection would not be lost.

However, under a 'single premium costed' policy, as the life assurance cover is renewable annually, HM Revenue & Customs consider that the contract is essentially put in place afresh each year – even if the cover is renewed without evidence of health. Although the cover may have been originally arranged before 6 April 2006 and has been continuously renewed every year, any renewal post-6 April 2012 cannot therefore be in relation to a policy that was 'in place' before 6 April 2006. So, the renewal of such a policy after 6 April 2012 would therefore result in the loss of Fixed Protection.

Renewal of a 'single premium costed' policy could be arranged where the premiums are paid from the assets of an occupational pension scheme [such as a SSAS] without affecting any election for 'Fixed Protection', provided that these premiums are not then reimbursed to the Trustees by the employer.

What about automatic or auto-enrolment?

From October 2012, under the provisions of Pensions Act 2008, some employers will be subject to the 'automatic enrolment' provisions and will be required to automatically enrol their employees into a pension scheme.

If your current [or any new] employer is subject to the 'automatic enrolment' provisions **under the provisions of Pensions Act 2008** and automatically enrols you into a new pension scheme, you will then have one month from the enrolment date to opt out of the new scheme. If you opt out within that one month period, you are then treated as if you had never been a member of the pension scheme. So, if you find yourself subject to 'automatic enrolment' under the Pensions Act 2008 provisions but then opt out within one month, you will then keep your Fixed Protection. However, if you do not opt out in time, you will then lose your Fixed Protection. Also, any employer subject to the 'automatic enrolment' provisions will have a duty to re-enrol those who have opted out every three years. So, in order to maintain Fixed Protection, you will need to opt out within one month each time this happens.

Please note that if you are admitted to membership of a pension scheme and this is **not** under the Pensions Act 2008 'automatic enrolment' provisions, you will definitely lose your Fixed Protection. This is because, in these circumstances, there is no legal provision that will treat you as not having been a member of the scheme. This applies even if you subsequently cancel the pension contract under the Financial Services Authority's cancellation rules. If you have applied for Fixed Protection and think that enrolment into a new scheme in these circumstances will result in the loss of Fixed Protection, you should then advise your employer or prospective employer at an early stage to avoid being enrolled at all.

How do I apply for Fixed Protection?

If you want to apply for Fixed Protection, you must then complete Form APSS 227. This Form will usually be available from your Professional Adviser, Pension Provider or Scheme Administrator. Alternatively, the Form can be obtained directly from the HM Revenue & Customs website via the following link.

http://www.hmrc.gov.uk/pensionschemes/apss227.pdf

You can only apply for Fixed Protection until 5 April 2012. After that date, HM Revenue & Customs will not accept any further applications. So, you will need to make sure that HM Revenue & Customs <u>actually receives</u> your fully completed Form APSS 227 by 5 April 2012.

Do I need a valuation of my pension fund to apply for Fixed Protection?

No. As you do not need to have built up pension rights of more than £1.5 million to apply for Fixed Protection, you will not need to give a valuation of your pension savings on the Form APSS 227 when you apply for Fixed Protection. However, before applying for Fixed Protection, you should keep in mind that you are only likely to need the protection if you reasonably believe that the value of all your pension benefits will be more than £1.5 million when you come to take benefits after 5 April 2012.

What if I already have Enhanced or/and Primary Protection?

If you already have Enhanced or/and Primary Protection, you do not need to do anything.

Enhanced Protection covers the position irrespective of the value of your pension benefits. Primary Protection is maintained at the current level because your 'Personal Lifetime Allowance Factor' will still be revalued by 20% even when the Lifetime Allowance has reduced to £1.5 million. Equally, revaluation of **Protected** Tax-Free Lump Sum Payments is covered by the same 20% uplift. You will only lose if you have a Non-Protected Tax-Free Lump Sum Payment. In this case, your Tax-Free Lump Sum Payment will be reduced to a maximum of £375,000, being 25% of the new £1.5 million Lifetime Allowance, where benefits are taken on or after 6 April 2012.

If the value of your pension benefits is currently below £1.8 million and you are near to the age [minimum 55 attained] at which you want to take benefits, you could elect to revoke your Enhanced Protection and then pay a further contribution [including any 'carry forward' amount] and apply for Fixed Protection – all before 5 April 2012. However, you would need to ensure that the ultimate value of your fund did not exceed £1.8 million. A complication in relation to this is if you elected Enhanced Protection and also elected Primary Protection as a 'backstop'. The problem here is that Fixed Protection cannot be elected where Primary Protection is already in force ….. and Primary Protection cannot be revoked.

All in all, you cannot improve your position under Fixed Protection if you already have Enhanced or Primary Protection with funds in excess of £1.8 million.

What if I have already taken my benefits in full?

As from 6 April 2011, the legislation was amended to confirm that there is no longer any obligation to secure pensions in payment by annuity purchase. You therefore now have the option of continuing a 'Drawdown Pension' throughout life.

However, if you do decide at some stage to either secure your pension by annuity purchase or, following an offer from the Trustees, convert it to a 'Scheme Pension', there will then be a test against the Lifetime Allowance.

Equally, your pension fund will also be tested against the Lifetime Allowance if you are still in receipt of a 'Drawdown Pension' when you attain age seventy-five.

In all of the above cases, the value of your pension benefits will of course have already been tested against the Lifetime Allowance when you originally took your Tax-free Lump Sum Payment and set up a Drawdown Pension. The subsequent tests therefore have a built in 'overlap rule' to ensure that it is only the **net growth**, in the form of investment return **less** payments of income made since you originally elected to take benefits, that is tested.

If you already have Enhanced or/and Primary Protection, you do not need to do anything. However, if you do not already have the benefit of one [or both] of these existing forms of protection, it could then potentially be worthwhile making an election for Fixed Protection.

The position is by no means straightforward and will depend on the percentage of the Lifetime Allowance used when you originally took your benefits and the actual [and anticipated] investment return, after allowing for your pension payments, up to one of the above 'trigger' events. If you are in any doubt as to the position, you should then seek professional advice.

However, as a general 'rule of thumb' if you do not already have Enhanced Protection, we would suggest that you make the election for Fixed Protection – provided that you have no intention of paying contributions in the future.

The only test against the Lifetime Allowance that can be triggered after your seventy-fifth birthday is if you are in receipt of a Scheme Pension that is increased beyond by an amount in excess of a margin set out in the legislation.