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Dear Client

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## **"Fixed Protection 2016" and "Individual Protection 2016"**

In recent times, UK Governments have never failed to resist the temptation to modify the pensions tax regime - and this year is no exception! For the third time in four years, the Government is reducing the maximum pension accumulation (known as the Standard Lifetime Allowance "SLA") that can be accumulated without tax for an individual - **unless some "Protection" is in place.**

From 6<sup>th</sup> April 2016, the SLA **will be reduced to £1 million from the current £1.25 million level.** Any excess funds accumulated over the SLA (or a previously protected higher limit) will be subject to a "Lifetime Allowance Charge" of 25%, levied at a "benefit crystallisation event".

**If you already have one of the existing forms of Protection and your fund already exceeds £1.25 million, then this change does not affect you and no further action is required at this stage. If not, then some action is needed to retain the current higher SLA and there may be contribution planning opportunities!**

**The process for obtaining Protection is different this time.** There is no deadline for applying for "Fixed Protection 2016" or "Individual Protection 2016" - except that the application must be made before the relevant "Benefit Crystallisation Event".

**Any individual who will need to rely on Fixed Protection 2016 must ensure that no contributions are paid to any pension arrangement (including Auto Enrolment schemes) after 5<sup>th</sup> April 2016.**

In the Technical Notes to this letter, we set out the relevant - and unbelievably complex - background information and detail. **The key consideration will be to assess whether there is likely to be a need to rely on Fixed Protection 2016.** If this is the case, **then it is vital to ensure that contributions to all pension arrangements cease by 5<sup>th</sup> April 2016.** There will be a "one-off" opportunity to pay additional contributions by that date, if this is possible and desirable.

**There may also be opportunities for those with existing Protections - but with total pension assets of less than £1.25 million - to cancel existing**

**Protection, pay contributions before 5<sup>th</sup> April 2016 and then apply for Fixed Protection 2016.**

If you believe that you may be impacted by these changes and wish to optimise your position please contact us as soon as possible.

Best wishes

*Nigel Sloam + Co*

**NIGEL SLOAM & CO**

## **TECHNICAL NOTES**

### **1. Background (“The Magnificent 7” Protections - “You wouldn’t believe it!”)**

The maximum level of pension benefits that individuals may accumulate tax efficiently within registered pension arrangements is limited to the Standard Lifetime Allowance (SLA).

The size of accumulated pension savings is tested at various “Benefit Crystallisation Events” (BCEs) such as on drawing benefits, on death, on transfer to an overseas pension scheme and at age 75.

Funds in excess of the SLA (or a protected higher limit), at a relevant BCE, will be subject to a tax known as “the Lifetime Allowance Charge” (LAC). The LAC is currently 25% - if excess benefits are drawn as pension income - or 55% if excess benefits are drawn as a lump sum.

The SLA was initially set as £1.5 million, from 6<sup>th</sup> April 2006. Pension scheme members with high potential entitlements were given at that time two alternative methods – “Enhanced Protection” and “Primary Protection” – to avoid or minimise the SLA’s impact.

By the tax year 2010/11 the SLA had increased to £1.8 million. This level was then frozen by the Labour Government for two years.

With effect from 6<sup>th</sup> April 2012, the then Coalition Government reduced the SLA to £1.5 million. Scheme members were, however, given a new Protection option “Fixed Protection” for which application had to be made by 5<sup>th</sup> April 2012. This preserved a £1.8 million limit for those who registered.

From 6<sup>th</sup> April 2014, the Coalition Government further reduced the SLA to £1.25 million. Again, individuals with no prior protection – or who had given up previous Protections - were entitled to register by 5<sup>th</sup> April 2014 for “Fixed Protection 2014”. This preserved an individual SLA of £1.5 million.

In addition, a further form of protection, “Individual Protection 2014” was also made available, which enabled scheme members to protect funds accumulated by 5<sup>th</sup> April 2014 between £1.25 million - £1.5 million and still accrue additional pension benefits after 5<sup>th</sup> April 2014. **The deadline for applying for this form of protection is 5<sup>th</sup> April 2017.**

The present Conservative Government – doubtless with the aim of ensuring an all-party consensus that pension funds are a milch-cow – are reducing the SLA to £1 million with effect from 6<sup>th</sup> April 2016. To cope with this third reduction, as you will by now have anticipated, **two** further forms of protecting accrued pension are being made available. This will mean that **three** choices will be available this year!

The new protection formats that have been introduced are to be called “**Fixed Protection 2016**” and “**Individual Protection 2016**” – and are described below.

**Many, who have not opted for any previous Protection, will be affected by the 6 April 2016 changes to the SLA and must consider what action should be taken now.**

Enhanced Protection, Fixed Protection, Fixed Protection 2014 and Fixed Protection 2016 **will be revoked** if there is any “benefit accrual” after the effective date of the respective form of protection.

Benefit accrual occurs either if any contributions are paid to a money purchase pension scheme (including a new "Auto Enrolment" pension scheme), or if the pension in a defined benefit pension scheme increases by more than a prescribed amount.

By contrast, benefit accrual will **not** invalidate Primary Protection, Individual Protection 2014 or Individual Protection 2016, although all additional accumulation that exceeds the protected personal limit will be subject to the LAC.

## **2. New and Current Protection Options**

The option to register for Individual Protection 2014 remains available up to 5<sup>th</sup> April 2017. In addition it is possible to apply for **one or both** of the two new options available to protect existing scheme members from the further reduction in the SLA, although these have no specific deadline.

### **Individual Protection 2014 (IP2014)**

This form of Protection was introduced in 2014 when the SLA was reduced to £1.25 million. This Protection will deliver a "personalised" SLA based on the value of total pension savings as at 5<sup>th</sup> April 2014, if such lie in the range of £1.25 million to £1.5 million.

The deadline for making an application for IP2014 is 5<sup>th</sup> April 2017, so there is still time for those eligible to register.

This Protection preserves the level of savings accumulated as at 5<sup>th</sup> April 2014, while members are able to continue pension accrual after 5<sup>th</sup> April 2014.

The additional two new modes of Protection available are as follows:-

#### **a) Fixed Protection 2016 (FP2016)**

Individuals who have pension funds in excess of £1 million, or believe that their pension savings will exceed this level - by the time benefits commence and/or at age 75 - can apply for Fixed Protection 2016 and retain an individual SLA of £1.25 million.

**To maintain Fixed Protection 2016 no "relevant benefit accrual" should occur after 5<sup>th</sup> April 2016** – which would happen if contributions were paid to **any** money purchase scheme or if accrued benefits in **any** defined benefit scheme increased by more than a prescribed amount, after that date.

#### **b) Individual Protection 2016 (IP2016)**

This alternative form of Protection will operate in a similar way to Individual Protection 2014, and will deliver a "personalised" SLA based on the value of total pension savings as at 5<sup>th</sup> April 2016, if such lie in the range of £1 million to £1.25 million.

In this mode, members will be able to continue pension accrual after 5<sup>th</sup> April 2016, whilst protecting the level of existing savings.

**It is possible to combine IP2016 with some other forms of Protection.**

### 3. Next steps

**HMRC have advised that it will not be possible to apply for Protection until after 6<sup>th</sup> April 2016, although there will be no deadline. Individuals who wish to rely on Fixed Protection 2016 must ensure that all benefit accrual ceases after 5<sup>th</sup> April 2016.**

This means that no contributions should be paid to any money purchase scheme **(including contributions paid to provide life cover under an insurance policy incepted after 5<sup>th</sup> April 2006)** or the accrued benefits in any defined benefit scheme should not increase by more than a prescribed amount, after 5<sup>th</sup> April 2016.

Apparently, the application process for both FP2016 and IP2016 will be effected online, via a self-service portal, available from around July 2016 onwards. There will be no specific deadline for submission, although Protection will need to be in place before benefits are crystallised.

In the interim period between April 2016 and July 2016, where individuals may wish to take benefits and need to rely on FP2016 or IP2016, there will be a temporary application process for these Protections.

The temporary application process will require scheme members to contact HMRC in writing with details of their intention to rely on either FP2016 or IP2016 or both. The member will then be provided with a temporary reference number which will be used by the scheme administrator when benefits are drawn.

If the interim process is used by an individual, they must, **naturally, also** apply for the already selected and requested Protection after July 2016 once the online portal is available, to receive a permanent reference number – which will equally naturally be probably different from the temporary reference number. **In the event an individual doesn't apply for a permanent reference number, the temporary Protection will be invalidated which may lead to a LAC tax on any savings above £1 million.**

**Those applying for either FP2016 or IP2016 should consider whether they should maximise further contributions before 5<sup>th</sup> April 2016.**

**Please note that the SLA applies to the total funds held in all registered pension schemes. In order to check your overall position and advise you as to what to do, we will need details of all your other pension arrangements.**

We will be pleased to review your existing pension arrangements, advise on your optimal strategy and, if appropriate, apply for Fixed Protection 2016 and/or Individual Protection 2014 and/or Individual Protection 2016 on your behalf – **or revoke existing Protections and reapply for the current Protection options, as appropriate.** This will require additional works not covered by normal trustee fees - and will be charged for on a time cost or on another agreed fee basis.

**Finally, we remind that payment of any pension contributions or benefit accrual, including payments to "Auto Enrolment" schemes could destroy most forms of Protection – other than Primary Protection or Individual Protection 2014 or 2016.**