

Talking points – Enhanced Protection

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As many of you are aware, since A-Day a partial transfer could result in the loss of enhanced protection.

However, in the Finance Bill 2007, they have proposed the removal of this restriction, subject to some further limitations.

Permitted transfers

When making transfers between pension arrangements, only 'permitted transfers' will enable your client to retain their entitlement to enhanced protection. The Finance Bill 2007 sets out an extension to the definition of a permitted transfer. The new definition allows a client to leave some funds in one scheme and transfer others into another without losing protection. In other words, a partial transfer of benefits from one arrangement to another can now meet the criteria of a permitted transfer. Currently, individuals have to transfer all their funds in one transaction; otherwise they will lose their protection.

This has had the greatest impact on SIPP investors who are wishing to consolidate the majority of their pension funds. There may have been certain parts of the fund that the SIPP could not hold or the investor wanted to leave until the investments matured, thus causing the investor to make a decision to transfer everything or nothing. The new definition means that these partial transfers will now be permitted without losing enhanced protection.

It should be noted that HMRC has also imposed some further restrictions for partial transfers from defined benefit or cash balance arrangements to another arrangement of the same type of scheme. The transfer can still be a permitted transfer where at least one of two new conditions is met. These are:

- » the transfer has to be related to employment and connected to a relevant business transfer. A relevant business transfer is defined as a transfer of business involving at least 20 employees, which takes place between two companies that are not in the same group.

- » the transfer is made as part of a retirement-benefit activities compliance exercise and both arrangements relate to the same employment. To be part of a retirement-benefit activities compliance exercise, the original scheme arrangement must provide rights to death benefits. Furthermore, the new scheme must also provide these rights and also relate to the same individual and employment.

Our view

The changes set out in the Finance Bill 2007 are a welcome change, allowing clients to make transfers of non-protected rights or unit linked funds whilst the ceding scheme continues to hold the protected rights or with profits funds until a later, more suitable, date. This should allow clients to take advantage of changes in the market or terminal bonuses without being penalised in the short term by being tied in.