

Financial Assistance Scheme

Trustee Update – dated 28 July 2008

This update is for Trustees, Administrators and members of FAS Qualified schemes. Please make its contents available to colleagues within your organisation.

Subject: The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2008	Financial Assistance Scheme (FAS) PO Box 702 York YO32 9XR Tel: 0845 6019941 Email: FAS-Operational-Unit@dwpgsi.gov.uk
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Introduction

The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2008 came into force on 17 July 2008. These Regulations continue the programme of work to implement the improvements announced by the Secretary of State for Work and Pensions in December 2007. In particular, these Regulations:

- Allow eligible members access to reduced FAS payments on the grounds of ill health.
- Extend the qualifying scheme criteria to include schemes where the employer is still trading and which began to wind up underfunded between 1 January 1997, and when the requirement began for employers to meet the full buyout costs on wind up.
- Remove the requirement for trustees to apply for initial payments on behalf of members and create a requirement for trustees to provide the requisite data needed for payments so that it reaches the FAS three months before the member's normal retirement age.
- Remove the option for FAS qualifying members to be reinstated into the State Additional Pension (deemed buy back) except in circumstances where 'technical amounts'/quotes have already been received by members.
- Provide powers for the FAS to obtain advice from the Pension Protection Fund (PPF) regarding the development of FAS business processes and for the PPF to assist the FAS in managing schemes through wind up.
- Provide FAS with powers to direct trustees to undertake particular actions in order to protect the remaining assets within qualifying FAS schemes.

Ill health

These Regulations introduced provisions to allow members to receive ill health payments from the FAS. These payments provide early access to FAS payments on an actuarially reduced basis on the grounds of ill health, where a member:

- is not already entitled to FAS payments;
- is within five years of their normal retirement age, (subject to a lower age limit of 55)
- is unable to work due to ill health; and
- is likely to continue to be so unable to work until they reach their normal retirement age.

If trustees are aware of any members who may benefit from ill health payments, please ask them to contact the FAS Operational Unit (FASOU), or alternatively trustees can contact us on a member's behalf. On notification of a member's interest in ill health payments the FASOU will issue an application form and accompanying leaflet.

Following receipt of a completed application form from the member, the FASOU will contact the relevant trustee to request the requisite data to calculate the ill health payments. Under the terms of the regulations, trustees will then have 14 days to return the necessary data to the FASOU. If for any reason you are unable to return the data in this timescale, we ask that you contact FASOU as early as possible so that we are able to manage members' expectations regarding any ongoing applications.

Further information is available on our website at www.dwp.gov.uk/fas

Schemes with Solvent employers

This legislation allows certain schemes that began to wind up between 1 January 1997 and 5 April 2005 with employers that are still trading to qualify for FAS assistance where the employer had paid the statutory debt or had no such debt to pay. FAS also has a discretion to determine that the relevant condition has been met where an appropriate proportion of the debt has been paid and it is reasonable in all the circumstances that the whole statutory debt has not been discharged

Trustees should consider whether they need to review their FAS portfolios, particularly where they have schemes which have previously failed to qualify for assistance, or where they did not pursue the application as no insolvency event had occurred.

Data provision

FAS is now able to make initial payments without an application from the trustees. The Regulations also place a requirement on all trustees to provide the requisite data within a 3 month period which will facilitate timely payments for FAS beneficiaries.

Where the member will have reached their normal retirement age by 17 January 2009 (the date 6 months after the Regulations came into force) this period ends three months after the day the information was requested from trustees.

Where the member will not have reached their normal retirement age by 17 January 2009, the information must be provided by trustees in the 3 month period which ends 3 months before the member's normal retirement age.

We have around 80 schemes where trustees have chosen not to apply for initial payments and around 100 schemes which have been accepted for initial payments where we are still awaiting data. We now expect the trustees of these schemes to provide the necessary data as soon as possible to allow us to make initial payments to all members who have reached their normal retirement age, unless you can confirm that:

- final benefits options have been issued to all members; or

- the scheme is funded significantly above FAS levels.

Deemed buyback

As part of this package of FAS Regulations, access to Deemed Buy Back has been removed for qualifying FAS schemes. Some trustees will already have received information on the costs of buying back (known as “Technical Amounts”) from HM Revenue and Customs and offered this option to members. HMRC will continue to process any applications subsequently received in respect of members who had been offered the option before the Regulations came into force. Trustees should be aware that these provisions do not apply to reinstatement into the state scheme by any other method, such as the payments of State Scheme Premiums, Accrued Rights Premiums or Pension Rights Premium (SSPs, ARPs, or PRPs).

Role of the PPF in development of FAS

Since the Secretary of State’s announcement in December about the improvements to FAS and the Government’s intention to take in all residual assets of qualifying schemes, we have been considering the future business model of FAS. Given the extensive changes that we are making to the scheme and the recent joint statement issued by the Pensions Regulator, the Pension Protection Fund and ourselves regarding schemes in wind up, we will now be putting greater emphasis on:

- the efficient progress of schemes through wind up by the adoption of a ‘project management’ approach;
- the preservation of scheme assets; and
- the quality of scheme data.

Given our increased focus on these key areas, we felt it was important to learn from the PPF experience in dealing with these issues over the last 3 years. Therefore we have decided to model our stewardship processes on those used by the PPF, where it is appropriate to do so. In particular, we will be looking at the established mechanisms within the PPF for monitoring schemes through the wind up process and preparing scheme data for transfer.

We hope this will have benefits for qualifying schemes, given that many trustees will have previous experience of these systems whilst managing other schemes through the PPF assessment period. However, we are aware that some trustees who are responsible for FAS schemes will not have experience of PPF systems and we are looking at ways to support those trustees in familiarising themselves with the new ways of working.

Although, there are significant similarities between FAS qualifying schemes and those in PPF, both FAS and PPF recognise that qualifying FAS schemes are likely to have some differences. For example, qualifying FAS schemes are likely to:

- be at different stages of wind up processes;
- have been winding up for a number of years;
- have ‘legacy issues’ surrounding scheme data and management of administration.

For these reasons we recognise that the simple adoption of all PPF processes will not necessarily be appropriate for the range of schemes within FAS. We will seek to tailor our processes to take into account the practical issues that may be faced by qualifying schemes.

We will be sending out a further update within four weeks. It will outline what trustees can expect in relation to the stewardship process and what will be expected of them. This will cover both schemes which expect to annuitise and those schemes that expect to transfer their residual assets to Government.

If you have any further queries, please do not hesitate to contact the FAS Operational Unit on 0845 609941 or by email to FAS-OPERATIONAL-UNIT@DWP.GSI.GOV.UK.

Yours sincerely,

Ros Sannachan

FAS Operational Unit Manager