18 December 2007

alert

sackers extra

# "FAS" IS FOR LIFE, NOT JUST FOR CHRISTMAS

## 1 MERRY CHRISTMAS ?

Campaigners for those affected by pension scheme closures may well be raising a glass of bubbly to the Government and the Young Review, following a joint announcement on 17 December 2007.

As a result of the announcement, the Financial Assistance Scheme (FAS) will be extended so that those eligible for help will now receive 90% of their promised benefits (subject to a cap). Also, around 11,000 people in schemes wound up with qualifying solvent employers will become eligible.

FAS has changed significantly since its inception in May 2004 as a lifeboat of limited reach for those people who were not eligible for the Pension Protection Fund (PPF). FAS has both been expanded in two directions – more schemes are included and therefore more people will be eligible for assistance, and those people will be entitled to a larger benefit than initially promised.

Keeping up to date is proving hard work, so in this Alert we review the schemes which are now eligible for FAS and the benefits which will be payable.

## 2 KEY POINTS

- FAS will be extended to certain schemes wound up with solvent employers. For further details of eligible schemes, see section 3.
- Benefits will be increased so that all members of eligible schemes will be guaranteed 90% of their accrued pension, subject to a cap (see section 4).
- The Young Review was charged with finding sources of additional funding for FAS (including from scheme assets). The final report makes a number of recommendations – see sections 5 and 6 below.

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## 3 ELIGIBLE SCHEMES

A defined benefit scheme will qualify for FAS if it entered wind-up between 1 January 1997 and 5 April 2005 (when the PPF was established), where:

- the employer is insolvent – although there will be evidential hoops to jump through to show that there is a link between the scheme wind-up and the insolvency event if it occurs after 1 January 2009; or
- the employer is solvent, provided that either:
    - a compromise agreement is in place and enforcing the debt against the employer would have forced the employer into insolvency; or
    - the scheme wound up after 1 January 1997 and before the employer was required to meet the full buy-out cost.

## 4 BENEFITS PAYABLE

The final parcel of benefits is as follows:

- All scheme members will be guaranteed 90% of their accrued pension at the date their scheme began wind-up. This will be subject to a cap of £26,000 p.a. This is pegged at roughly the same level of protection as the PPF.
- Assistance payments derived from pension accrued post-1997 will be increased each year in line with inflation (subject to a limit of 2.5%).
- Assistance will be paid from each failed scheme's normal retirement age, but not earlier than age 60. But people who are not able to work due to ill-health will also be able to apply for early access to payment from age 60.
- Members may be able to draw a tax free lump sum.

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## 5 MEETING THE RISING COSTS

Inevitably, the expansion will see the costs of FAS rise significantly. Originally the Government only agreed to make £400 million available but, the likely spend has seemingly increased to £2.9 billion in today's terms. But where will this extra cash come from?

The Review of Scheme Assets, headed up by the Government Directing Actuary, Andrew Young (the Young Review) was commissioned by the Government to look at ways of generating additional value from failed pension schemes. The interim findings of the Young Review published in July 2007[1] identified approximately £1.7 billion worth of uncommitted assets in those FAS schemes yet to complete winding-up, of which a large proportion was in schemes which had not yet started to purchase annuities for members.

As a result, Regulations[2] were introduced in September 2007 to temporarily halt the purchase of annuities to "safeguard the value of the assets" identified by the Young Review, unless there was already a binding commitment to do so or it was in the best interests of the members. The Young Review has now made specific recommendations for the use of those assets.

## 6 THE YOUNG REVIEW

***Purchase of annuities***

The Young Review makes two recommendations for the purchase of annuities by eligible schemes:

- An extension of the temporary restriction on the purchase of annuities.

- A policy of treating both eligible and non-eligible members (e.g. pensioners) in a scheme in the same way.

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[1] For further details, see our Sackers Extra 7 days dated 16 July 2007
[2] The Financial Assistance Scheme (Halting Annuitisation) Regulations 2007 prohibited the purchase of annuities for 9 months from 26 September 2007

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***Use of Assets***

The interim report identified three options for the use of scheme assets: the current FAS arrangements; bulk annuitisation; or managed use of scheme assets (including the Government taking in scheme assets and liabilities).

The final report makes it clear that the most appropriate use of assets depends on the "appropriate level of guarantee" to be given to members. This decision is for the Government.

- If guaranteed assistance levels are appropriate, the report recommends the Government takes in the assets and pays the amounts to all FAS beneficiaries as they fall due.

- If some element of risk sharing (with members) is appropriate then managed use of assets in a fund based option with appropriate investment risk "is the best way forward".

The report also makes a number of comments regarding risk sharing noting that: any risk sharing should be structured so that those closest to retirement bear the least risk; risk sharing is trade off - either the members or the taxpayer hold the uncertainty of investment performance; and whilst risk sharing lowers costs, it does so at the expense of certainty.

This is a potential cloud on the horizon for those celebrating the news.

***Alternative Sources of Funding***

The Young Review was also asked to identify alternative sources of funding (without making recommendations in respect of them). The final report identifies the following as possible avenues for the Government to explore: unclaimed personal pensions and insurance policies; lost shareholdings; customer payments; unclaimed assets within collective investment companies; and unclaimed winnings from gambling.

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**7 … AND A HAPPY NEW YEAR ?**

The details of the revised FAS in the statement given by the Secretary of State for Work and Pensions, Peter Hain, are sketchy at best – he acknowledges this saying:

> "The final details of these proposals will be confirmed in the New Year, when we will outline the legislation necessary to give effect to this package. We will do this as quickly as possible and call on all parties involved to work with the Government to ensure this commitment results in increased payments in the fastest possible time."

Peter Hain's announcement and the Final Report of the Young Review can be found by following the links below:

http://www.dwp.gov.uk/mediacentre/pressreleases/2007/dec/pens50-171207.asp

final report



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