Application of Fixed Additional Time

Background

* This is intended to address concerns raised in the community comments, and shared by members of this IOT, that the time limits for bringing an IRP should not have the effect of dissuading a claimant from pursuing other accountability mechanisms which might serve to narrow or resolve the matters in dispute, such as the Request for Reconsideration (RFR), for fear that by doing so they would be out of time to file the IRP.
* Our initial discussions on this topic considered tolling of the time limit to bring an IRP to account for time spent in a related RFR. Some members of the IOT raised concerns about complexity and the potentially lengthy period of time, in total, before an IRP might be brought. The proposal for allowing a period of Fixed Additional Time arose out of the desire to strike a reasonable balance.
* The IOT also considered the question of whether a Dispute which is appropriate for an IRP might also fall within the scope of the RFR process, and the majority concluded that it could.

Agreement reached

* Applies where a potential claimant to an IRP first brings an RFR relating to the same Dispute, provided of course that at the time the RFR is brought the claimant is not already out of time to file an IRP.
* Where that RFR does not serve to wholly resolve the dispute, and the claimant now intends to commence an IRP (or a CEP as a precursor to an IRP), they will have the following time to do so:  
  + If the claimant is not out of time to file an IRP as of the time of the publication of the Approved Resolution by the Board on the final disposition of the RFR (or publication of the summary dismissal by the BAMC where appropriate) and the remaining time to file an IRP is greater than or equal to 30 days then the claimant will have this remaining time to file an IRP.
  + If the claimant is out of time to file an IRP or has less than 30 days to file an IRP as of the time of the publication of the Approved Resolution by the Board on the final disposition of the RFR (or publication of the summary dismissal by the BAMC where appropriate) then the claimant will be granted 30 days fixed additional time (FAT) to file an IRP from the time of the publication of the Approved Resolution by the Board on the final disposition of the RFR (or publication of the summary dismissal by the BAMC where appropriate).
  + Provided that the IRP is commenced (or the Cooperative Engagement Process (CEP) is initiated) within the 30-day FAT period, the claimant will not be considered out of time to file their IRP.
* Whether to also apply the concept of FAT where a claimant initiates CEP will be discussed when we review and revise the CEP rules.  If that revision of the CEP rules indicates that it is necessary, we will revisit this concept of FAT further.
* We did not agree to apply the concept of FAT to complaints to the Ombuds or to DIDP requests.