Department for Digital, Culture, Media & Sport

HM Treasury

Government Response to the Commission on Dormant Assets' Report on Tackling Dormant Assets: Recommendations to benefit investors and society

February 2018

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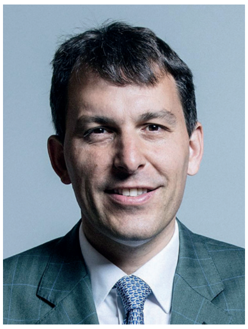
Tracey Crouch



John Glen

Every bank and building society that has so far contributed to the dormant assets scheme should be proud of what has been achieved. The scheme has encouraged firms to work harder to reunite customers with their assets, while at the same time identifying and freeing up a substantial sum of money for good causes. More than £1bn has been contributed from dormant bank and building society accounts since 2011. Hundreds of millions of pounds have been distributed to good causes, benefiting the lives of some of the most vulnerable people in our society.

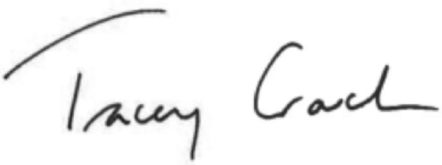
The scheme has been a success because of the commitment of the banking sector, and the Government thanks all participating banks and building societies. The Government is also grateful for the instrumental role that Co-operative Banking Group and Reclaim Fund Ltd have played in establishing the scheme.

Adding to the successes to date, the Government recently announced the allocation of an additional £330m of dormant account funds. Up to £280m of this will be used in England to fund support for disadvantaged and disengaged young people, initiatives in financial inclusion and capability, and deployed as social investment by Big Society Capital in both housing for vulnerable people and local charities and social enterprises, while approximately £50m will be used to fund good causes in the devolved administrations.

The Government welcomes the recommendations from the Commission on Dormant Assets and thanks the Chair, Nick O'Donohoe, and all the Commissioners for their efforts.

The Government is committed to both increasing participation in the current scheme and expanding the scheme to a broader range of financial assets. The Government also hopes to see further efforts to reunite customers with their money. We encourage industry to drive these efforts and stand ready to assist.

We look forward to working with the financial services sector and Reclaim Fund Ltd to build on the scheme's successes so far, to reunite more customers with their money, and to fund more good causes.



Tracey Crouch MP
Minister for Sport and Civil Society

John Glen MP
Economic Secretary to the Treasury

Introduction

The dormant assets scheme

The Dormant Bank and Building Society Accounts Act (the Act) was passed in 2008 to address the challenges and opportunities that dormancy presented to the banking sector. Early expectations were that participating firms in a voluntary scheme would transfer around £400m to Reclaim Fund Ltd (RFL) which could be used to support good causes.

Nearly a decade after the implementation of the Act, the scheme has proven to be very successful. The major UK high street banks and building societies are participating and more than £1bn from dormant accounts has been identified and transferred into the scheme. The recent announcement on the allocation of the next tranche of dormant account funding will take the total made available to good causes to well over half a billion pounds. The Government undertook a post-implementation review in 2014, which found that the scheme was working well.

The Commission on Dormant Assets

On the basis of this success, the Government established the independent Commission on Dormant Assets in 2016 and asked it to provide advice on the potential to include a wider range of dormant assets within the scheme. The Commission consulted widely with firms, RFL, trade associations and regulatory bodies, and in March 2017 reported its findings to the Government.

In developing its response to the Commission's report, the Government has engaged closely with the financial services sector. This included holding a series of roundtables with members of the banking, insurance and pensions, investment and wealth management, and securities sectors. These were attended by leading firms, RFL, and trade associations. Feedback from these has helped the Government to better understand the challenges and opportunities for each sector in participating in an expanded scheme.

An Expanded Dormant Assets Scheme

Principles of an expanded dormant assets scheme

The Government agrees with the Commission that there is significant potential to expand the dormant assets scheme to a wider range of asset classes.

The Government also agrees with the recommendation of the Commission that the core principles of the current scheme be maintained. These are:

- the first priority of firms should be to trace and reunite customers with their assets. Assets should only be transferred into the scheme after appropriate reunification efforts have been made.
- the participation of firms in the scheme should be voluntary.
- customers should be able to reclaim any asset transferred into the scheme in perpetuity.
- no customer should be disadvantaged by having an asset included in the scheme. Under the current legislation, customers are able to reclaim the amount that would have been due to them had a transfer into the scheme not happened. The Government does not propose to make any amendments that would alter the principle of full restitution.

Expanding the dormant assets scheme

The Government will adopt the following approach in expanding the scheme:

- expansion of the scheme will be led by industry, which has been an integral part of the scheme's success to date. The Government's role will be to encourage and facilitate the expansion of the scheme by considering legislative change, which will allow the financial services sector and RFL to drive forward this work.
- as the scheme moves toward the inclusion of a more diverse range of assets, expansion is likely to be phased. Experience from the current scheme demonstrates that firms increase their understanding of dormancy over time. As their understanding grows, so too does their capability to identify and transfer additional assets. This is likely to be the case with more complex assets in any expanded scheme. In addition, the pace of implementation may vary across different sectors.
- the Government is minded to consider legislative changes to the scope of the Act. The Government will look at the legislative changes required to enable the scheme to be accessible to a broader range of asset classes. In doing so, the Government will not consider changing the requirement for customers to be eligible for full restitution.

- the Government recognises that there are particular challenges around the inclusion of non-cash assets with significant market variability in value. The Government therefore encourages firms to focus efforts on cash assets and those that are not subject to significant market movements in value.
- in due course, firms and RFL may wish to consider opportunities to expand the scheme to include assets with greater levels of market variability. This should only take place where industry participants and RFL are able to put in place reserving arrangements that satisfy the requirements for full restitution. The issues that need to be worked through for this to take place should not, however, prevent faster progress on cash assets and those without significant market variability.

Next steps

The Government will announce senior industry champions to lead further work, representing the banking, insurance and pensions, investment and wealth management, and securities sectors. The champions will focus on ensuring appropriate approaches to dormant assets are in place industry-wide, improving tracing and reunification, building participation in the current scheme, and considering options to expand the scheme to other asset types. The champions will work with firms in their sector, trade associations and regulatory bodies.

The champions will report to the Government on:

- the potential scope of an expanded scheme in their sector;
- appropriate definitions of dormancy in their sector, including for products that are typically used as long-term savings vehicles; and
- other technical and practical considerations that apply to their sector, including tax and regulatory implications, data protection requirements and the process for transferring assets to RFL.

In 2018, the Government will undertake a preliminary assessment of the legislative amendments required to enable an expanded dormant assets scheme. This will particularly focus on the changes required to alter the scope of the Act (therefore including a wider range of assets), the role of RFL (which would allow it to accept a wider range of assets) and definitions of dormancy for different asset types.

The Government will make decisions about any potential legislative amendments after the industry champions have reported.

The Scope of an Expanded Dormant Assets Scheme

The Government sees potential to grow participation in and expand the dormant assets scheme – and encourages the financial services sector to drive this effort. Successful expansion will require industry leadership.

The Commission identified a wide range of assets that may be suitable for inclusion in the scheme. The Government agrees that there is potential to broaden the scheme to include more assets across the insurance and pensions, investment and wealth management, and securities sectors. Further work is required to assess the feasibility of including specific asset classes within each sector.

Treatment of dormant assets

While progress has been made, tracing efforts vary across firms and sectors, with challenges remaining in both identifying and re-engaging customers. The Government encourages firms to work together to improve the reunification of customers with their assets – including by sharing best practice and standardising approaches across sectors – and stands ready to support this effort.

Assets in scope

Following consultation with the financial services sector, the Government recognises that there are different challenges to the incorporation of different asset classes within a broader scheme. In particular, there are significant challenges to including in the scheme assets held in non-cash form which can be subject to significant market movements in value. This includes challenges in identifying dormancy, calculating the value of an asset, transferring the asset to RFL and managing the reserves required for any reclaims. The Government also recognises the complexities of including any assets that are held either in trust or collective structures. These issues apply to differing degrees across different asset classes within the insurance and pensions, investment and wealth management, and securities sectors.

Given this, as noted above, the Government urges firms to focus initial efforts on expanding the scheme to a wider range of cash assets and other assets whose value does not vary significantly because of market forces.

Banks and building societies: The Government encourages firms and RFL to continue to work together to transfer other banking products into the scheme where appropriate within the current legislation. This should include products such as dormant Cash ISAs, suspense accounts and foreign currency accounts. While some firms do transfer such assets, approaches vary. The Government does not consider there to be any legislative or technical barriers to the inclusion of these products in the current scheme and encourages firms to share best practice and develop more consistent approaches to the treatment of these assets.

Insurance and pensions: The Government believes there is substantial potential for dormant insurance and pension products to be included in the scheme, and notes strong interest from firms in participating in an expanded scheme as well as the effort that firms have devoted to considering this issue. The Government encourages firms, led by the industry champion, to further consider how insurance and pension products could be included in an expanded scheme.

Investment and wealth management: As the Commission noted, the investment and wealth management sector is highly complex, with a large number of products and participants, and approaches to dormancy vary. The Government notes efforts made by a number of firms to better manage unclaimed client monies but believes more can be done to improve the approaches taken across the sector to dormant assets and encourages firms to work together to improve tracing and reunification. The Government also encourages firms to consider whether any dormant investment and wealth management assets could be included in an expanded scheme.

Securities: There are varied approaches to dormancy across the securities sector. The Government believes more can be done to better manage dormant assets, and notes that some firms have already taken action to use unclaimed dividends for charitable purposes. The Government urges firms to improve tracing and reunification processes and develop standardised approaches to dormancy. The Government also encourages firms to consider whether any dormant securities assets could be included in an expanded scheme.

Assets out of scope

The Commission made a number of recommendations about assets that should remain outside the scope of the scheme, including credit unions, mutual insurance funds, industrial branch insurance policies and general insurance. The Government agrees that these assets should continue to be outside the scheme. The Government also agrees with the Commission's recommendation that Child Trust Funds (CTF) should continue to be excluded at this stage, and will give further consideration to this once the CTF scheme has matured. The Government believes that Junior ISAs should be excluded at this stage on the same basis, with this to be reviewed in the future.

The Government rejects the Commission's recommendation that unclaimed National Savings and Investment (NS&I) balances should be included in an expanded scheme. Money invested in NS&I products is passed directly to the Exchequer and used to fund public services. This means that any unclaimed balances are already being used for public benefit.

The Commission noted the potential for non-financial assets to be included in the scheme. The Government has not yet considered this.

The Governance of an Expanded Dormant Assets Scheme

Reclaim Fund Ltd: the first reclaim fund

In 2011 Co-operative Banking Group (CBG) established RFL, the country's first reclaim fund. The Government recognises CBG's important role: its stewardship in setting up this vital part of the dormant assets scheme has enabled more than £1bn to be transferred into the scheme by banks and building societies and hundreds of millions of pounds to be routed to good causes across the country. The Government also recognises the hard work of RFL, as having built confidence in the scheme and demonstrated its viability to the participating banks and building societies.

A responsible reserving policy

RFL took an understandably prudent reserving policy in its early years. RFL is responsible for holding reserves which allow it to meet all future reclaims in perpetuity, and there was little evidence to learn from on potential reclaim rates at the outset of the scheme. This prudent position was noted by the Commission.

As the amount of dormant account balances transferred to RFL has grown, so too has the firm's experience of reclaims and expertise in modelling potential future reclaims. This has meant that RFL has been able to update its reserving policy and make more money available for good causes than was previously the case. The recent Government announcement, which allocated a further £330m in dormant account funding to good causes over the coming four years, is a direct result of this.

The Government expects RFL to ensure that it holds a large enough provision to meet all potential future reclaims while making as much money available for good causes as is possible.

The future role of RFL

The current role of RFL is to administer the mechanism of receiving dormant assets, to invest them, to meet reclaims and to distribute a portion of funds that are not reclaimed for the benefit of good causes.

In response to the Commission's recommendations, the Government has considered to what extent RFL could take on a more proactive role in supporting an expanded dormant assets scheme.

The Government hopes that RFL will continue to work closely with the current participants in the scheme. The Government also hopes that RFL will help the industry champions to galvanise other parts of the financial services sector to both expand the scheme and to improve industry-wide approaches to managing dormant assets.

The governance arrangements of RFL

CBG's ownership has given vital stability and certainty to the existing scheme, and has been appropriate for the scheme's early years. The Government believes, however, that there is merit in the Commission's recommendation that RFL should become structurally separate from its current parent.

RFL now has a track record which should give confidence to participating firms that it can operate as an independent entity. The Commission noted that CBG does not regard RFL as core to its future business interests, and the Government will look to engage productively with CBG and RFL as to the future of the organisation.

The Government is supportive of RFL remaining in the private sector, and does not agree with the Commission's recommendation that it should become a public body of some kind. There is real merit in RFL having the independence to function in accordance with its mission set out in legislation without external influences.

The alternative dormant assets scheme

In addition to the main scheme, the Dormant Bank and Building Society Accounts Act also provides for an alternative scheme which allows smaller banks and building societies to transfer a proportion of their dormant assets to RFL, while transferring the remainder to charities of their own choosing.

To date, the alternative scheme has not had any take up, and the Commission recommended its abolition. In the 2014 post-implementation review, the Government undertook to further review the alternative scheme in 2017. The Government understands that the Building Societies Association and UK Finance have been in discussion with RFL to further assess the viability for the alternative scheme to become operational. The Government will wait for a progress update before making a decision on the future of the alternative scheme.

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