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Dormant Bank and Building Society Accounts Bill [HL]

Bill 80 of 2007-08

This short Bill provides the legislative framework for an intended 'dormant assets' scheme. Dormant assets are those that have no clear owner; the owner has not used the account for some time and cannot be contacted. The Bill provides a mechanism by which assets so identified can be managed and distributed for defined social purposes. It also provides necessary legal protections for institutions participating in the scheme.

It is based on the proposition that financial assets that have no obvious owner should be put to use rather than simply sit, forgotten, in bank and building society accounts.

Timothy Edmonds

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Summary

Over a number of years the existence of unclaimed financial assets has attracted increasing attention. Practice in other countries of putting such assets to 'good use' and the experience of the impact of National Lottery 'good causes' provided two impulses for consideration of a UK scheme which has resulted in this Bill.

The Bill has been preceded by a long period of consultation between government and financial institutions over the principles and details that such a scheme would need. The result of these discussions is a voluntary scheme under which dormant bank and building society accounts are to be transferred to a Central Reclaim Fund.

The scheme will only apply to money in private sector bank and building society accounts in which there has been no activity for more than 15 years. Dormant accounts in National Savings are not to be included in the scheme.

Money transferred to the Reclaim Fund will be distributed nationally by the respective Parliaments and Assemblies. In England the priorities for distribution are youth projects and to improve financial capability. Should further funds become available there is a general consideration towards investing in the "third sector". This is unlikely to be the major destination of funds. The other countries of the UK can determine their own priorities.

There are no precise estimates of the initial amount that will be forwarded to the fund, but there is a working assumption that it will be no more than £500 million. This is likely to be reduced considerably as encouragement by the Government and initiatives of the financial service sector to repatriate accounts to their rightful owners receive greater publicity and increase consumer awareness.

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I Introduction

It is difficult to say who first thought of the idea to utilise 'dormant assets'. Legislation in several other countries predates UK initiatives. Limited industry initiatives in the UK predate legislative initiatives. Private Members' Bills with the same aim, incorporating one aspect or another, were published broadly contemporary with official ideas. However, the path to this Bill can conveniently be said to have begun with the publication, in December 2002, of a joint Treasury and Home Office discussion document *Next Steps on volunteering and giving in the UK*.[1] It said:

> **2.35** Legacies can provide an important sustainable income stream for voluntary sector organisations. Charities are currently gifted about £1 in every £20 of the value of estates. Yet all too often these legacies do not reach the charities for whom they were intended as estates are often undervalued and not all the assets are taken into account. It has been estimated that, in total, around £1 Billion of the assets of deceased persons lies unclaimed. This is exactly the amount that UK charities currently receive from legacies each year. If a way could be found to make it easier for charities to receive the money always intended for them it could mean a significant increase in charitable income.
>
> **2.36** There already exists a voluntary Unclaimed Assets Register. However, searching costs money which few charities can easily spare and coverage is limited to the financial institutions that have chosen to participate. The British Bankers Association and Building Society Association operate a joint search facility and National Savings and Investments and the Bank of England gilts Registrar also offer search facilities and helplines. These initiatives represent a good start and a foundation on which we might build further.
>
> **2.37 We believe that a more comprehensive scheme has considerable attractions. It would enable charities and individuals to find out what assets they have a claim on and has clear potential to boost the income of charities.** We would not want to lose what has already been achieved by the Unclaimed Assets Register or by the banks. Any comprehensive scheme would, therefore, build on this work and tap into the existing expertise in this area. We want to work constructively with the banks, financial institutions and the voluntary and community sector to reach a shared understanding of how things can be improved and **how a comprehensive database might be achieved that would lead to a significant increase in charities' income.**[2]

This position was repeated in *Budget 2004*:

> **5.72** The Government supports the efforts of the British Bankers' Association, the Building Societies' Association and National Savings & Investments in trying to reunite unclaimed assets and their owners. It is right in principle that more should be done. Where assets and owners cannot be reunited, it is also right that the assets be reinvested in society, as long as the original owners' entitlements to reclaim are preserved. Charitable and voluntary organisations would provide an effective route for this.

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1 *Next Steps on Volunteering and giving in the UK*

2 Ibid p16

5.73 The Government welcomes the creation of the Balance Charitable Foundation for unclaimed assets, and the commitment made by two major investment banks to pass over some of their unclaimed assets to the Foundation. The proceeds of such transfers should be distributed fairly across the charitable and voluntary sector. Distributing organisations for these monies should be run in an open and consultative manner, in accordance with best governance practice and with the involvement of the financial services industry and the voluntary and community sectors.

5.74 The Government looks to the industry to build on current momentum, and expand the scope of voluntary action beyond investment banking into retail banking and the wider financial sector. The Government will assess and report on progress at the time of the 2004 Pre Budget Report.[3]

A. The scale of dormant accounts & the current system of repatriation

Unclaimed assets are the broad set, of which dormant accounts are but a subset. Estimates of the scale of unclaimed assets vary widely, from a few hundreds of millions of pounds up to between £15 and £20 billion.[4] A table produced by the Unclaimed Assets Register is shown below:[5]

Total UK Unclaimed Assets

Source	£ millions
Life policies	1,000
Pensions	3,000
Dormant Accounts	5,000
National savings	3,000
Lotteries & other	300

Source: Unclaimed Assets Register

One of the reasons for the variation is that each estimate is highly dependent on both the period chosen for 'dormancy' (the longer it is before an account can be declared 'dead' the lower are the qualifying assets) and the range of assets included in the definition. The fact that the Government has chosen a relatively long period before an asset can be declared 'dormant' inclines estimates towards the lower part of the range.

Dormant accounts in banks and building societies are the biggest single source of unclaimed asset, but, despite its keenness to tackle the issue, the Government has, in the form of national savings, substantial unclaimed assets of its own. These are excluded from the Bill. A combination of restricting the Bill to bank and building society accounts and the lengthy period of 15 years taken as the qualifying period for 'dormancy' means that estimates for the expected sums to be released under the proposed schemes are much smaller than the figures in the above table. The Treasury's *Final Impact Assessment* states:

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3 *Budget 2004,* HC 301 2003/04
4 There is no official estimate HC Deb 4 May 2004 c1486W
5 Source: Unclaimed Asset Register at: http://www.uar.co.uk/benefit.htm

> **1.27** The Government relies on the bank and building society sector for estimates of the current stock of unclaimed assets. The BBA suggests that unclaimed assets within bank accounts currently amount to £250 - £350 million. The BSA has separately advised that unclaimed assets held within building society accounts could be up to £150 million. It is likely these figures will be reduced after the pre-scheme publicity campaign.[6]

This suggests that there might be a historical endowment of up to £500 million, built up over a considerable number of years, to which will be added much smaller, annual endowments as further sums cross the 15 year threshold.

It is pertinent to ask at the outset what purpose these assets are being put to now. Short of stuffing bank notes in a mattress it is virtually impossible for financial assets to do nothing. An argument levelled against banks is that they benefit financially from unclaimed funds and thus have only limited incentive to do anything about them. The current procedure for banks to deal with dormant accounts is set out in the original consultation document:

> **4.11** Banks and building societies that use International Accounting Standards and those that are following FRS 26 under UK GAAP are required to recognise in full their liability to repay each individual dormant account holder. The liability may be removed from the balance sheet ('de-recognised') when and only when it is extinguished[13]. To extinguish the liability the bank or building society must:
>
> - pay the dormant account holder;
> - obtain release from the liability under some term of the contract with the account holder;
> - obtain legal release from the account holder; or
> - be released from the obligation by process of law.
>
> **4.12** However, the nature of dormant accounts is such that it is not possible for the bank or building society to pay amounts back to account holders or to obtain legal release from them, because they cannot be contacted. It would also be unusual or the current contractual terms underlying a typical bank account to make provision for unilateral legal release by the bank in the event of the account becoming dormant. Banks are not permitted simply to extinguish their liability and remove it from their balance sheets.[7]

Press reports speculate that banks might benefit to the extent of £30 million a year from dormant accounts. To the extent that these benefits represent higher income streams to the financial institution, the beneficiaries are shared amongst, in some combination, employees (higher remuneration), the government (higher taxes) and shareholders (higher dividends).

The Government rejects the view that money held in unclaimed public sources, like National Savings & Investments (NS&I), is idle. In its Report into dormant accounts the

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6 *UK unclaimed assets scheme: final impact assessment*, HM Treasury November 2007

7 *A UK Unclaimed Assets Scheme consultation paper*, HM Treasury March 2007

Treasury Committee criticised the asymmetric treatment of dormant accounts by Government, namely that accounts held with NS&I would not be included within the distribution. The criticism, and the Government's response, are shown in the following extract from the *Response* to the original Treasury Committee Report:[8]

> 9. If the Government considers that specific use for identified good causes is the best use for the dormant accounts held by others, the Government should apply the same principle to accounts held by NS&I. On the grounds of equity between financial institutions, we recommend that NS&I be brought into the scope of the Unclaimed Asset Scheme. If that scheme is to be voluntary, we recommend that the Government volunteer NS&I's participation. (Paragraph 40)
>
> The Government has considered the case for NS&I's inclusion in the unclaimed assets scheme in detail, and has taken into account the points raised by the Committee. The Government position remains that the unclaimed assets held in NS&I accounts should not be included in the scheme.
>
> Unclaimed assets in banks and building society accounts are held on the balance sheets of these institutions. The unclaimed assets scheme will change this by using the assets to benefit the wider community. By contrast, NS&I does not hold any of the money invested in its products on its own balance sheet. Instead, the monies are passed directly to the Exchequer where they are used to fund public services. This means that money in NS&I accounts is already benefiting the community.
>
> As NS&I's unclaimed assets are used for public spending, including NS&I's unclaimed assets within the scheme would require the Government to fill the gap that would be created by the transfer of assets to the scheme either by raising further funds to meet its public spending commitments or by cutting existing expenditure plans. Both alternatives would have an adverse effect on the taxpayer. NS&I, as part of Government, is therefore different from banks and building societies in such a way that would make it inappropriate to apply the principles of the scheme to unclaimed assets held in its accounts.
>
> NS&I is, however, taking the lead along with the BBA and BSA in the part of the scheme aiming to reunite customers with lost assets, and the Government welcomes the acknowledgment of the Committee that the existing asset reuniting arrangements run by NS&I have had some success. NS&I is playing a leading role in reuniting customers with their assets, and launched a press, internet and radio advertising campaign to promote its free of charge Tracing Service on 28 July 2007. To date the NS&I Tracing Service has reunited over 46,000 customers with assets totalling approximately £47m. Alongside the BBA and BSA, the NS&I is developing proposals on how reclaim schemes can be better co-ordinated, including considering the proposal for a single customer interface. The Government understands that the industry will make a public statement on this point in due course. [9]

The simple fact of giving publicity to the phenomenon of dormant accounts has stimulated consumer and industry interest in the repatriation of assets. Such repatriation

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8 Treasury Committee *Unclaimed Assets within the financial system*, HC 533 2006-07, July 2007

9 *Government Response to Treasury Committee* HC 1028 2006-07

of funds may improve. However, given the varied ways in which individuals manage to 'lose' money, it will never be foolproof. An article in *The Times* outlines the various routes to dormancy.

> A spokesman for the Unclaimed Assets Register said: "Accounts become inactive for a number of reasons. Customers may simply forget about their investments, or they make investments without telling their spouse. When the customer then dies, the surviving partner is unaware that the funds exist. "Institutions usually make considerable efforts to find their customers, but people do not always notify their bank of a change of address."
>
> The British Bankers' Association said that its members wrote to 400,000 people last year to tell them that their account would be classified as dormant. Barclays said that 90% of the customers it contacts at this stage were successfully reunited with their money, plus back-dated interest -but it also admitted that it took profits from any money that was not claimed.
>
> A spokesman said: "However, in the minority of cases where we are unsuccessful, we move a proportion of that balance, over time, to the income side of our balance sheet. This is purely an accounting treatment that does not change the rights of customers in any way. The money remains their property and can be reclaimed with back-dated interest at any time."[10]

Currently there are two main initiatives for dealing with unclaimed assets: tracing the account holders; and distributions made by the industry-led Balance Charitable Foundation.

1. Tracing account holders

Even had financial institutions not been pro-active in trying to increase their efforts to repatriate accounts to their owners, the publicity given to the Government's proposals is likely to have spurred an increase in enquiries about 'lost' money. Thus it is not clear how much of the recent increase in repatriated money is due to 'demand' or 'supply'. Under the auspices of the British Bankers Association all 41 banks have subscribed to an industry scheme to facilitate customers' searches for lost accounts – the *Mylostaccount* scheme.[11] The subscribers include the main institutions plus less obvious retail organisations such as Direct Line Financial Services, Citibank International and the Moscow Narodny Bank. The list also includes organisations that, under the current definition, cannot have dormant accounts since they did not exist 15 years ago, for example, the banking divisions of Sainsbury's and Tesco's. An identical scheme operates for building societies and for National Savings. Several participating banks have gone further still. Lloyds TSB, for example, announced, on 18 June 2008, a dedicated tracing initiative. A company press release explains:

> LLOYDS TSB AIMS TO REUNITE CUSTOMERS WITH OVER £69 MILLION
>
> *Bank launches nationwide account reunification drive*

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10 *Dormant accounts boost banks' profits*, Sunday Times 25 April 2004

11 Lost Accounts

> Lloyds TSB is today announcing a nationwide drive to reunite customers with approximately £69 million held in over 120,000 unused savings accounts, commercial accounts and personal current accounts.
>
> The bank has appointed specialist search agency Tracesmart Ltd to track down customers with accounts that have been inactive for 15 years or more. The search will cover unclaimed assets in Lloyds TSB savings and bank accounts, as well as Cheltenham & Gloucester savings accounts. The average amount that Lloyds TSB hopes to return to its owner is £575, with one in ten accounts having a balance in excess of £1000.[12]

2. The Balance Charitable Foundation

According to its website, between 2003 and 2007 the financial services' Balance Charitable Foundation (BCF) distributed £8 million from unclaimed assets. A press release from the BCF outlining its structure and membership is shown below:

> The Balance Charitable Foundation is an independent charity dedicated to securing the release of unclaimed assets from financial institutions and to making grants to the charitable sector whilst maintaining the ability of the owners of this money to claim it under an innovative insurance scheme arranged through the Lloyd's insurance market. The Foundation has the power to support any charitable work in the UK or overseas compatible with UK charity law.[13]

In some respects the BCF was a useful trial run for the current proposed scheme. As it says on its website, "Having achieved its primary objective, demonstrating proof of concept, Balance has now ceased operations".[14] An article in *The Guardian* described contact between the BCF and Government.

> The foundation is in discussion with the Financial Services Authority to tackle the technical and regulatory hurdles to ensure unclaimed assets can be released. The charity says it will safeguard the rights of any owners of assets who come forward to claim them by using an insurance scheme set up through Lloyds.
>
> […]
>
> Economic secretary to the Treasury, John Healey, said: "The issue of how unclaimed assets are used is important. The chancellor said today that such assets should be reinvested in society if their owners cannot be found. In the light of that, we welcome the creation of the Balance Foundation and the progress it has made in its early discussions."[15]

Although the Government supported this initiative, the BCF was independent of it.

During its existence the BCF was clearly aware of the possibility of 'lost' depositors or policyholders appearing again after an absence of several years. The legal and technical issues were discussed with the FSA and the financial aspects were dealt with

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12 Lloyds Bank press release 18 June 2008
13 Press Release March 2004 at
14 BCF Website
15 *Brown backs new foundation:* The Guardian, 18 March 2004

by recourse to an insurance policy with Lloyd's of London. One important reason for the Bill is to provide a legal framework to resolve similar types of issues.

Outside the BCF, banks and building societies make their own independent donations to charity. Currently the most high profile is the trust established by the Northern Rock bank. Charitable donations by banks and building societies as declared in their accounts are shown below:

Charitable donations £ millions

	2003	2004	2005	2006	2007
Abbey	2.2	2.5	1.8	2.8	na
Alliance and Leicester	1.1	1.2	1.3	1.9	1.9
Barclays	32.8	32.0	39.1	46.5	52.4
Bradford and Bingley	1.0	1.3	1.3	1.7	1.9
Britannia	0.3	0.3	0.3	0.3	0.3
HBOS	19.6	38.1	43.1	44.2	na
HSBC	47.4	69.2	81.4	86.3	100.9
Lloyds TSB	36.7	35.5	37.1	38.6	37.0
Nationwide	-	2.4	2.3	2.3	2.3
Northern Rock	19.3	21.6	24.7	31.3	na
RBS	40.1	46.0	56.2	58.6	na
Total	200.5	250.1	288.6	314.5	na

Source: Annual Reports & Accounts

There is no indication yet whether the loss of dormant assets will have an impact on banks' level of charitable contributions.

B. Lead up to the Bill

Between the announcement of plans for a scheme and the publication of the Bill there was considerable speculation about how the scheme would operate and the extent to which banks would be forced to participate. Newspaper comment portrayed a struggle between unwilling banks and a coercive Government. Articles quoting 'Treasury officials' highlighted the fact that banks routinely used unclaimed assets to bolster their financial performance. In a move designed to put pressure on the banks to act generously one article from the *Financial Times* noted:

> The Treasury told the Paper that the chancellor was considering legislation as early as the next Budget if banks did not voluntarily surrender the money. "It depends how much money the banks give up" one insider said.[16]

Another article portrayed an increasingly bitter struggle between the banks and the Treasury over the mechanism by which money might be distributed

> Gordon Brown, the chancellor, has warned banks that he will legislate to force them to hand over some £15 Billion from customers' dormant accounts to charity.

[16] *Dormant accounts boost profits,* Financial Times 20 April 2004

> The threats reflect government frustration at the banks' "stalling tactics". But senior bankers fear that Brown is picking on them to allow him to announce a pre-election giveaway.
>
> One source at a "big five" clearing bank said: "The flow of record profits means we are a soft target."
>
> Keith Hollender, managing director of the Unclaimed Assets Register, said: "The Treasury is taking a hard line and is determined to force it through, with or without legislation. They have in reserve the prospect of a windfall tax."
>
> The banks have responded with suggestions which, while purporting to support Brown, would cripple the scheme. They argue that the new rules should apply only to assets deposited since 2000. This way the banks would make the first payments to charity in 2006, because funds would be designated dormant only if they had lain unclaimed for five years. The banks would thus keep the lion's share of unclaimed assets for themselves.
>
> In a further challenge to Brown, the banks want to distribute the unclaimed money through their own foundations and trusts.
>
> The banks are prepared to fight. One senior banker accused the Treasury of "rank hypocrisy" for failing to release the estimated £3 Billion of unclaimed assets in gilts and in the National Savings Bank.
>
> A Treasury source defended its stance by claiming that these funds were already being "re-invested in society".[17]

Further details of the Government's intentions were announced in the Pre-Budget Report 2005, including the decision to define 'dormancy' at 15 years.[18] According to the British Bankers Association website:

> The decision to base the unclaimed assets scheme on a 15 year definition of dormancy recognises that monies are often reclaimed after an extended period of inactivity, but also that genuinely lost or ownerless assets can usefully be reinvested in the community. Many details still need to be finalised and we look forward to continuing to work closely with the Government and other stakeholders to design a co-ordinated delivery mechanism."
>
> As the PBR observes, initial record searches by the industry point towards the amounts lying unclaimed in bank accounts at the 15 year point as being in the region of several hundred million pounds.[19]

The implication of the choice is that after a substantial start-up contribution, the flow of new funds to good causes is likely to be modest, perhaps in the low tens of millions depending on how it is calculated. The other policy development was the first indication by the then Chancellor, about the likely use to which these funds would be put. Mr. Brown said:

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17 "Brown plans the £15bn bank heist", *Sunday Times*, 8 August 2004

18 *Pre- Budget Report 2005*, Cm 6701 pp5.79-5.83

19 See http://web.archive.org/web/20060426205857/http://www.bba.org.uk/bba/jsp/polopoly.jsp?d=145&a=6563

> Today, I can announce […] that unclaimed assets held in bank accounts will, once realised, be put to use to improve youth and community facilities throughout Britain. It is right for us as a Government to make a start now. First, the Government are joining with seven of Britain's leading companies to launch the country's first national youth community service. With up to £100 million of initial finance, it will fund gap-year volunteering in Britain and abroad for young people who otherwise could not afford gap years, and it will fund part-time and full-time community service in every constituency. Secondly, because we want the 2012 Olympics and, beyond that, any English bid for the 2018 World cup, to regenerate sport for young people in our country, the Culture Secretary and I are today announcing details of a national sports foundation, modelled on the Football Foundation's successful investment in football facilities. We will invest new money in improving facilities, amenities and participation across all sports in every area of the country.
>
> But as the Youth Green Paper said, more can be done not only to support wider youth services, but to put decisions about the programmes for young people in the hands of young people themselves. So as a first step, we will provide finance for each local authority to set up a young people's fund; for amenities and activities run by young people, and decided on by young people themselves. On average, half a million pounds will be provided for each local authority over the next two years, so that they can strengthen local communities. [20]

November 2005 saw the establishment of the Unclaimed Assets Commission. Explaining the role of the Commission its Secretary said:

> What the Commission brings to this issue is an ability to act as the focal point for all sides in this debate. We will do so in a completely even-handed and fair manner. The banking industry, meanwhile, will find us sensitive to the many challenges they face in settling this issue. We are keen to discuss how they could gain from this policy change both in terms of their standing with consumers as well as financially, given that unclaimed asset funds could help to create new and profitable investment opportunities within local communities. These potential opportunities could be worth Billions of pounds for financial institutions.[21]

The Commission outlined its objectives as follows:

> The initial focus of work will be to recommend a framework for dealing with Dormant accounts in the UK that:
>
> - Ensures consumers will always be able to access their money regardless of when they come forward to claim it
>
> - Recommends the best way of using the remaining resources to benefit the country as a whole, with a specific focus on disadvantaged communities

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[20] HC Deb 5 December 2005 c614

[21] Unclaimed Assets Commission Press release 1 December 2005

- Identifies means to maximise the impact of the funds by leveraging in other forms of funding to increase overall investment in disadvantaged communities.[22]

In Budget 2007, the broad aims of the scheme were repeated, together with the announcement of two consultation documents.

1. HMT consultation document on UK unclaimed assets scheme[23]

This was published on 20 March 2007. It started from the position that:

- unclaimed assets would be restricted to bank and building society funds;
- the scheme would be voluntary for the financial sector;
- the heart of the scheme would be a central 'reclaim fund'(CRF);
- the reclaim fund would be independent of the industry and government alike;
- account holders would have a legal right to reclaim money owed to them but which had been declared 'dormant';
- funds would be transferred to the central reclaim fund after 15 years dormancy;
- the 15 year period is a period in which there has been no 'customer–initiated activity'.

The main issues for consultation were:

How to regulate the CRF: The CRF will have funds and it will have a duty to invest and manage these funds, simultaneously maximising the funds for distribution and providing sufficient reserves to pay out on claims. It is expected that the CRF will be regulated by the Financial Services Authority.

How to deal with customers: It is expected that the Banking Code will be amended to deal with unclaimed asset issues; that customers will have access to the services of the Financial Ombudsman; and that the main interface will be between the customer and the bank, individuals will not have to deal with the CRF direct.

Legislation: The document confirms that legislation will be necessary. Legislation is needed for:

- definition of accounts to be included in the scheme;
- definition of banks and building societies participating in the scheme;
- extinguishment of the participating institutions' liability to repay the customer on the transfer of money[24] to a reclaim fund and its replacement with a new liability on the reclaim fund to repay;
- set up and operation of a reclaim fund;
- other consumer protections; and arrangements for small locally-based financial institutions.

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22 ibid

23 http://web.archive.org/web/20071003145608/http://www.hm-treasury.gov.uk/media/9/5/consult_unclaimedasset200307.pdf

24 In simple terms, how to protect the banks from legal claims against them if a 'lost' owner turns up and finds that their money has been given away without their authority.

Most of these points are self-explanatory. The last however, refers to the case where a small institution (most likely one of the smaller building societies) wishes to contribute dormant funds to local projects. The legislation will set a limit on total assets to define those institutions which could 'opt-out' of the main scheme. The paper suggested £7 billion as the upper level of 'small'. This would include almost 60 institutions which might hold something like £900,000 of unclaimed assets each.

2. HMT consultation document on Unclaimed Assets distribution mechanism[25]

This document discussed how money from the CRF ought to be distributed to the deserving causes. It was informed by the prior publication of a report by the Commission on Unclaimed Assets in March 2007.[26] The Commission concluded that what was required to provide the financial backing and support for the 'third sector' was a fully funded Social Investment Bank (SIB). The Executive Summary of the Report said:

> That an independent SIB should be created using capital from dormant accounts. The bank will need £250 million capital and £20 million annual income for four years.
>
> SIB should have four activities, capitalize current financial intermediaries and fill gaps where lack of capital restricts social impact; develop advice, support and higher risk investment; develop community regeneration and financial inclusion programmes; and support existing and new intermediaries in their efforts to raise capital.
>
> Community Investment tax relief should be 'significantly extended'.

The Treasury Report set out three priority destinations for funds and the SIB idea, although acknowledged was the lowest of its priorities:

- a 'main focus' on youth services;
- financial capability and inclusion; and
- "resources permitting …a proportion of the available assets used to invest in the long term sustainability of the third sector".[27]

The principles on which the money would be allocated were set out as follows:

- fairness between the countries of the UK;
- spending additional to Government spending (there is a substantial Government programme for financial inclusion for example);
- distribution to be accountable and transparent;
- should deliver practical projects in local communities; and
- distribution to include a diverse range of communities.

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25 Unclaimed assets distribution mechanism: a consultation, HM Treasury, 2007

26 *The Social Investment Bank: Its organisation and role in driving development of the third sector*, Commission on Unclaimed Assets, March 2007

27 *Unclaimed Assets distribution mechanism: a consultation* HM Treasury, p 6

The other main proposal concerned the way in which money was allocated and distributed, via the Big Lottery Fund (BIG) infrastructure to "distribute assets to deliver effective programmes". BIG is a non-departmental body, a successor to previous bodies such as the New Opportunities Fund and the Community Fund; it has "extensive experience of investing often large sums of money directly into frontline services, as well as via existing intermediaries".[28] The consultation document stressed that unclaimed assets would "not be used to supplement existing Lottery funded activities".

Legislation will be required to give BIG additional powers to those it already has under the *National Lottery Act etc 1993*.

II The Bill

The *Dormant Bank & Building Society Accounts Bill [HL Bill 2]* was published on 7 November 2007 and was introduced into the Lords on the same day. It was a short, 30 clause Bill with three schedules, divided almost equally between provisions dealing with the collection of dormant accounts and provisions that dealt with their distribution. It had its Second Reading in the Lords on 21 November 2007[29] followed by a four-day Grand Committee starting 10 December 2007. There is a full set of explanatory notes on clauses and impact assessment available from a variety of sources.[30] The next sections of this Paper deal with the broad impact of the Bill, brought out in particular themes debated during the Lords Grand Committee and Report stages (where there were four successful non-Government amendments).

1. Introduction

By way of introduction, the Minister in the Lords, Lord Davies of Oldham, set out the main features of the Bill at the start of his speech on Second Reading. He said:

> The scheme is intended to operate as follows. Following the pre-scheme reuniting exercise, participating institutions identify accounts that meet the definition of dormancy. The Bill allows banks and building societies to cancel their liabilities to holders of these accounts on certain conditions, including the transfer of assets to an FSA-authorised reclaim fund. As part of this transfer, the Bill establishes a new statutory right for consumers to be repaid by the central reclaim fund. Money that the reclaim fund does not require to repay consumers will be passed over for reinvestment in the community via the Big Lottery Fund.
>
> In England, distribution will focus on providing places to go for young people, financial capability and inclusion projects, and, resources permitting, developing the social investment market. The devolved Administrations will determine their own priorities for distribution. Small institutions will have an option of seeing money reinvested in their local communities. As I set out earlier, banks and building societies estimate that between £400 million and £500 million currently lies unclaimed under the proposed definition. Clearly, the impact of pre-scheme

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28 ibid p 24 [again, op cit WHAT?!!]

29 HL Deb 21 November 2007 c870

30 The most comprehensive starting point is the Treasury website at: http://collections.europarchive.org/tna/20071204131301/http://www.hm-treasury.gov.uk/documents/financial_services/unclaimed_assets_scheme/fin_unclaimed_assets.cfm

> reuniting and the provision by the reclaim fund against future reclaim requests will mean a significantly smaller amount is available for distribution. It is not possible to quantify this figure at present with any degree of confidence.

> While customers will always have the ongoing right to reclaim their money under the proposed scheme, the Government believe that it is important that any scheme is preceded by a concerted reuniting effort. Reuniting customers with their lost accounts is primarily a matter for financial institutions and their customers and is outside legislation. The Government therefore welcome the bank and building society sector's commitment to a comprehensive reuniting exercise in advance of the scheme launch.[31]

What became a source of tension on several occasions, on several issues, during the Lords committee proceedings is what the Bill is *not*.

- The Bill is not the scheme itself.
- The Bill does not force banks or building societies to participate in the scheme.
- It does not set out how it should be administered in any degree of detail.

The scheme itself is voluntary. The institutions have agreed to it; in return, the Government emphasised time and again the 'light touch' regulatory regime they sought to impose. Thus, many of the questions during Lords' proceedings could not be answered within the framework of the Bill. For example, on a discussion over the correct sum to be transferred to the Reclaim Fund, the minister, Lord Bach, replied to Baroness Noakes-

> **Lord Bach:** In part, the voluntary nature of this enterprise means that I cannot give the noble Baroness a direct answer as to how it will work. The relationship between the banks and building societies and the fund will be critical in how people are paid.[32]

Baroness Noakes, speaking for the Opposition, described the relationship between government and the participating financial institutions as an "uneasy truce, or a fragile agreement".[33] Replying, the Minister outlined the benefits of this working arrangement:

> A voluntary approach enables the use of private sector expertise to manage and invest the money paid into the reclaimed fund by banks and building societies. It means that the private sector will take responsibility for managing liabilities to account holders, which will remain on the private sector's balance sheet. If it is asked why they should do that and what is in it for it for them, as did the noble Lord, Lord Hamilton, we should explain that it will be a publicly explicit scheme. The public will know which banks sign up to the scheme and the extent to which they take part, so we do not have to worry about whether any of the major institutions will refrain from participating—very far from it.

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31 HL Deb 21 November 2007, cc871-2
32 HL Deb 10 December 2007, c23GC
33 Ibid.; c10GC

> The basis of the agreement—or "uneasy truce", as the noble Baroness abstracted from the sense of the noble Lord, Lord Newby, but it is a little more than that—is a willing partnership to give effect to what the banks and building societies recognise is the unacceptability of money lying in accounts which according to their records they do not own. A careful, articulated approach will be taken to safeguarding the owners of those assets until we are clear that there are no claimants. We will also guarantee that claimants will get their money at any stage that they establish that they have a rightful claim, at whatever point of transfer the money has reached. That is all part of bank and building society goodwill and commitment. Therefore, the advantages of the voluntary approach are considerable.[34]

Whatever its benefits, the result of having a voluntary scheme does mean that whole aspects of the operation and administration of the scheme remain outside the Bill and are, in practice, to be left to the financial institutions to devise the procedures.

2. Part One: defining the scheme:

a. Transfer of balances in dormant accounts.

The first part of the Bill includes the provisions that define the participating institutions; the targeted assets and how those assets are transferred to the fund from which they will be distributed. The 'definitional' clauses are those from clauses 8 to 11; the definitions given therein are as follows:

- Bank (clause 8): an authorised deposit taker that has a head office or branches in the UK
- Balance (clause 9): the amount outstanding on an account, less fees and charges, plus interest
- Account (clause 10): money only accounts, i.e. excludes share holding accounts
- Dormant (clause 11): the holder of the account has initiated no activity on the account for more than 15 years

Also of interest is the option (clause 2) for smaller banks or building societies to participate in a second tier scheme. Such a scheme would allow smaller institutions that have strong local or regional connections to maintain charitable works at their discretion and outside the BIG distribution model.

Issues raised by way of Opposition amendments in Grand Committee are given below.

b. Increase the range of assets to be included in the scheme.

Many classes of assets are currently excluded from the fund, including life assurance policies, pension assets, shares not taken up in demutualisations, other shares whose owners cannot be traced, and so on. The Government's narrow definition reflected compromises made achieving the voluntary scheme and, it claimed, the different characteristics of things other than cash that made it harder to include them:

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[34] Ibid GC11

> All other forms of unclaimed assets—particularly pension assets, which often come within this framework—raise a whole different set of legal and procedural issues compared to banking assets. Both the legal ownership structure and the nature of the investment assets are very different from cash. For instance, if we removed assets from the majority of unclaimed pension funds managed by insurance companies, that might well require higher members' and employers' contributions. Again, I am not saying that that is totally impractical, but I am indicating that it is another hurdle to cross beyond the one which the noble Lord, Lord Hamilton, identified with regard to the banks and building societies.
>
> We have to be limited in our ambition with this scheme, but it represents a massive step forward. It is the fulfilment of a pledge that we made in 2005, and it will realise significant assets. The issues which have been raised are important but difficult ones. Getting this scheme off the ground will take probably until 2009. To undertake full consultation in seeking to overcome the difficulties with all the other assets that I have identified would mean, even if it proved practicable, that we would be a good deal more distant from effective legislation. The Government are proud of what is before the Committee; it is the fulfilment of a commitment and a significant step forward for banks and building societies whose co-operation we have achieved.[35]

It was confirmed in subsequent debate that the Reclaim Fund will deduct from its receipts its own administrative costs.

c. A compulsory scheme.

The argument for ending the voluntary agreement was raised in the Lords and followed recommendations made by the Treasury Select Committee which said in its report that:

> We welcome the Government's commitment to legislate to facilitate the use of unclaimed assets for the public good. However, we are unconvinced that the Government is correct to pursue a voluntary approach. A compulsory scheme has the overwhelming advantage of guaranteeing fairness and consistency between institutions. We urge the Government to reconsider the voluntary basis of its proposals. If the Government is still minded to continue with a voluntary scheme, we recommend that the forthcoming legislation be prepared so as to include reserve powers for Ministers to establish a compulsory scheme at a later date without recourse to further primary legislation, should a voluntary scheme prove unsuccessful. If a voluntary scheme is established, we recommend that the Government put in place arrangements to ensure information about institutions that are, and are not, participating in the scheme is publicly available.[36]

The Government not only rejected compulsion but also rejected the possibility of reserve powers to impose it later because, as Lord Davies said "Including these powers in legislation would not be a good use of Parliament's time".[37] The Minister explained to the Committee that:

> A voluntary approach enables the use of private sector expertise to manage and invest the money paid into the reclaimed fund by banks and building societies. It

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35 Ibid GC6

36 Treasury Committee, *Unclaimed Assets within the Financial system,* HC 533 2006/7, para 13

37 *Government Response to Treasury Committee Report*, HC 1028 para 1

> means that the private sector will take responsibility for managing liabilities to account holders, which will remain on the private sector's balance sheet. If it is asked why they should do that and what is in it for it for them, as did the noble Lord, Lord Hamilton, we should explain that it will be a publicly explicit scheme. The public will know which banks sign up to the scheme and the extent to which they take part, so we do not have to worry about whether any of the major institutions will refrain from participating—very far from it.[38]

Schedule 1 of the Bill requires the Central Reclaim Fund (CRF) to publish the names of the institutions which pass money to it, and how much. This is meant to encourage the active participation of the institutions.

The issue of voluntarism arose later in proceedings on the issue of dormancy. In the Lords the Opposition pressed, by way of several amendments, for a full definition of dormancy to be included in the Bill. The Minister described this as "a clash of principles on how the Bill should look".[39] This 'clash' was resumed on Report. Speaking on behalf of a group of 53 charities, Baroness Finlay of Llandaff proposed reserve powers on the grounds that it would put more pressure on the financial institutions to make the scheme work. She rejected the Government argument about reserve powers not being a good use of Parliament's time, by saying:

> I struggle to reconcile that statement with the simple fact that it might save parliamentary time to include it on the face of this Bill, rather than having to return later. In fact, if a reserve power is not included and the voluntary approach fails, Parliament would have to pass primary legislation, and thus go through the whole debate again before the mandatory register could be established. That was why I thought we should have something in the Bill. The Government have included reserve powers in previous legalisation, such as in the Charities Act 2006 in relation to the regulation of fundraising standards, so there is a precedent.[40]

The Minister's reply emphasised the Government's expectation that the voluntary scheme would be a success:

> If a voluntary scheme can be a success, it is not necessary to consider a compulsory scheme now or in the future. There are advantages to a voluntary scheme, and downsides to a compulsory one. A voluntary approach brings some flexibility; I hope that we agree on that. Our legislation provides a minimum definition of dormancy, but will allow individual institutions to refer to a range of indicators that suit their own capabilities and customer needs best in order to determine whether an account is genuinely dormant. This means that not all accounts that technically meet the legal definition of dormancy must be transferred, and enables only genuinely unclaimed accounts to be transferred into the scheme. […]
>
> Let us be frank: a voluntary approach enables the use of private-sector expertise to manage liabilities to account holders. It is right that the private sector, which has the expertise to manage reclaim risk, should take on that function. As I have said, the sector is committed.[…]

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38 HL Deb 10 December 2007 GC11
39 HL Deb 10 January 2008 GC348
40 HL Deb 29 January 2008 c565

> We expect institutions to join the scheme in order to play a positive role in reuniting customers with their assets and making money available for community reinvestment. We believe that prestige is likely to be attached to participation, and we do not accept that the industry's profits really provide incentives not to participate in the scheme. The banking industry estimates that dormant accounts in the UK account for only 0.047 to 0.065 per cent of the totals in retail banking and savings balances held by the nine largest banking groups alone. The industry itself rejects the argument that retaining this money on its balance sheets is a disincentive to participation—not, I repeat, a significant motivation for them. […]
>
> Of course, the scheme must be highly transparent, to demonstrate that the banks and building societies are delivering on their commitments, to maintain public confidence in the scheme and to strengthen further the incentives for institutions both to reunite customers with their own money and to transfer genuinely dormant accounts to the scheme. […] our view is that those arguments [in favour of compulsion] run counter to the public commitments of the industry, the many advantages of a voluntary scheme and the positive incentives for institutions to participate.[41]

On a related point, on Report in the Lords, an amendment was passed requiring the CRF, and thence the Treasury to lay an annual report before Parliament on the workings of the fund.[42] A further successful amendment requires the Treasury to produce a triennial Report to Parliament 'on the operation of the dormant accounts arrangements'.[43]

d. Second tier participation.

The Bill allows for banks or building societies with balance sheet assets below £7 billion to transfer an agreed proportion of their dormant funds to charities with which they consider they have a special connection and thus not give everything to the Reclaim Fund. The Lords discussed amendments that would allow all building societies within the second tier scheme outlined in clause 2 (see above) or to allow all institutions to participate in it. The amendments were designed to introduce further elements of voluntarism into the scheme and to reflect the differences associated with the mutual principle of ownership:

> It irks a building society to hear that money that has lain in a dormant account will be transferred to the Big Lottery Fund, over which it has absolutely no influence. The members do not want that and I think that the Government should listen to them. The key point is that there is a big difference between a mutual society and a mainstream, high street bank.[44]

The Minister replied that the big institutions could still support 'local' communities, provided, he implied, they chose the objects of the Fund as what they wanted to support:

> As I indicated, a large number of the overall priorities of the national scheme will accord well with what the building societies want to achieve—particularly the

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41 HL Deb 29 January 2008 c568
42 HL Deb 29 January 2008 c579
43 Ibid c596
44 Lord Naseby 10 December 2008 GC32

> development of financial literacy—so it will be recognised that we think that the big mutuals will play their part at a local as well as a national level.[45]

Describing this response as 'ludicrous' Baroness Noakes for the Opposition pointed out what she saw as the weaknesses in this position:

> The Minister said that these building societies can go to the Big Lottery Fund. It is a ludicrous argument that has the building societies paying the money to the reclaim fund, which pays the money to the Big Lottery Fund, which then, if it feels like it, might hand it back. That is such a nonsensical argument that it is barely worth responding to[46]

She continued by explaining why Opposition members wished to keep the activities of the Lottery (which the Minister had said was completely unconnected) and the CRF in the same frame:

> The Minister urged us not to confuse the Big Lottery Fund, as a distributor, with the lottery. For the record, we insist that there is a major connection; the reason why the dormant account money is being put through the Big Lottery Fund is to conceal the fact that large amounts of money that would otherwise be available for good causes through the lottery distributors has been stolen for the Olympics. By funnelling this money through the fund, the Government will be able to give the appearance of large sums of money going through the lottery distributors when in fact it is coming from the dormant accounts.[47]

On Report, the Opposition retabled its amendment to exclude all mutual societies; it was successful. A consequence of this, if it is not overturned in the Commons, is that although the amendment only excludes a further eight building societies, these represent a significantly large tranche of the expected source of funds for the CRF.

e. Management of the Reclaim Fund.

The Opposition repeatedly criticised the Government's arm's-length legislative approach towards the reclaim fund and the scheme in general. For example, Baroness Noakes asked what would happen if the Reclaim Fund were to run out of money. This could happen if the early funds were distributed too eagerly, before successful late claims against deposits were filed. The Minister responded:

> The Bill requires a reclaim fund to be authorised by the FSA, and it amends the relevant primary legislation to enable the activities of a reclaim fund to be specified as regulated activities. The Government will also amend the relevant society secondary legislation—the regulated activities order—following the enactment of the Bill, which will bring the reclaim fund within the scope of FSA regulation.
>
> We believe that that provides satisfactory checks and balances to ensure that consumers are protected in relation to this matter. What are those checks and balances? First, the FSA will be able to apply regulation to the reclaim fund so that it manages the assets prudently and is able to repay dormant account holders who

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45 Lord Davies of Oldham Ibid GC35
46 Baroness Noakes Ibid GC36
47 Ibid

> come forward to reclaim their money. We think that that goes a long way to safeguarding the interests of consumers. Further, FSA regulation will enable claims against the reclaim fund to be brought under the coverage of the Financial Services Compensation Scheme, mentioned earlier this afternoon, subject to its meeting the usual qualification criteria and once necessary amendments have been made to the scheme rules. Therefore, we do not believe that it would be appropriate or necessary for the Government to take on the liability for repaying consumers, given the framework that we are trying to establish in the Bill.
>
> I said that it was highly unlikely that the reclaim fund would become insolvent. If that were to happen, as I said, customers would be able to claim compensation from the FSCS so long as the reclaim fund remained authorised by the FSA, subject to meeting the usual qualifying conditions. The FSA would consult on the detailed rules in relation to the FSCS and its cover in the usual way. [48]

Questions were asked later about general controls over the reclaim fund. For example, Schedule 1 of the Bill requires the articles of the fund to defray expenses unless they are 'unreasonable' – without defining what reasonable means. The Minister said that "what is reasonable will be a matter for the directors and members to decide [and] the Treasury would have a reserve power if an outrageous position developed."[49]

The debate in Grand Committee continued over the apparent irreconcilability of the fact that the CRF is not a Government body and the scheme is voluntary; hence the legislation can only include so much detail over that which it creates, but does not control. The Minister, Lord Bach, at one stage said, "we have faith that they [banks and building societies] will set up a suitable company" to which Lord Newby replied:

> This is the most pathetic sight one could imagine: two Ministers, supported by serried ranks of civil servants, being asked the simplest questions about the reclaim fund—the central feature of the Bill in terms of new bodies being established—and not only are they incapable of answering them, but they seem to think it is rather ridiculous that they are being asked. With all due respect, it is not for us to go scurrying around asking bodies out with the Government how they believe the Government's will is to be interpreted; it is for the Government to tell us how they expect things to operate.[50]

The Minister also ruled out, in response to amendments, whose joint purpose was to increase the transparency of what the CRF did, the publication by the fund of an annual Report to Parliament.[51] The Minister stated that the information contained in a private limited company's accounts, together with the specific requirements of Schedule1 (which requires the CRF to publish the names on contributors) would be sufficient for the purposes of public scrutiny.

f. Additionality : the 'smoke and mirrors' problem.

In arguments similar to those expounded when the National Lottery was introduced, the Government is open to the accusation that it will somehow take the credit for the results

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48 HL Deb 11 December 2007 GC74
49 Ibid GC86
50 Ibid GC96
51 Ibid GC97

of expenditure resulting out of confiscated accounts, or, alternatively reduce its own expenditure by a compensatory amount.

Lord Newby put this most explicitly when he spoke to the second part of the Bill:

> The logic of the Government's approach, with them having said that it is a voluntary scheme and accepted that it is money that the banking sector holds, is to say to the banking sector, "We agree that this is a voluntary scheme. You will voluntarily put the money into the reclaim fund and, then, as it is money from you, why don't you decide how you are going to spend it? You can spend it along the lines that you currently spend funds in your charitable activities and, in respect of the some of the building societies, that will happen anyway". There would have been logic in that, and we would have had a much shorter Bill.
>
> As Ministers are aware, we on these Benches have from the start suggested that the scheme should not be voluntary, but statutory, and should cover all banks and building societies. Therefore, the logic is that we want to have a say in how the money is spent. We are, as it happens, being given that chance, because the Government want the best of both worlds: they want the banks to sort out the difficult issues around raising the money and administering it, but they want to get the benefit of how it is spent. I am sure that we can imagine the Prime Minister joyously opening a series of youth clubs up and down the country that have been funded from this scheme.[52]

Later Lord Newby contrasted "the lightest touch possible" applying to the way in which money is raised and accounted for, with the "pretty prescriptive" rules surrounding how the money is spent.[53]

That there is an issue was recognised by Lord Davies in a debate on (then) clause 15:

> An amendment has been tabled with the dreaded concept of additionality added to it. I say "dreaded" because for those noble Lords who were not present when we discussed the lottery several years ago—and I exclude the noble Viscount, Lord Eccles, who was present at the debates—we had endless discussions on the issue of additionality. No one in the Committee can underestimate the glee with which I saw this concept reappear in an amendment—and predictably so. It will raise the same problems of definition, too, when we actually get to it.[54]

Lord Howard of Rising moved an amendment that would explicitly ban spending of these sums on services currently provided by statutory bodies. He noted in his speech that more than £1 billion of Lottery money had been distributed to statutory bodies such as councils and schools.[55] In response, the Minister stressed that:

- BIG would have to account for reclaim fund money separately and under paragraph 9(3) of Schedule 3 will have to report on their practice in relation to 'additionality';

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52 HL Deb 10 January 2008 GC367
53 HL Deb 11 December 2007 GC101
54 HL Deb 10 January 2008 GC371
55 HL Deb 15 January 2008 GC462

- Funds are distributed following local applications – they are not distributed according to 'top down' Government interventions; and

- It has proved impossible to devise a definition of additionality "that will stand up in law and be the absolute sure rock on which BIG-distributed resources under this fund".[56]

A more philosophical version of this view was put in the debate by, amongst others, Lord Higgins, who had previously surprised his colleagues with the revelation that he had worked on a similar dormant assets body in Switzerland at the request of the World Bank. He said:

> I have not participated in this series of debates on the exact nature of the fund and so on, but I am becoming increasingly puzzled. It is perhaps my own fault for not having got involved in this matter earlier. As I said yesterday, I was appointed to the system which operated in Switzerland. I was just rereading the advertisement which asked people who had possible dormant accounts to come forward. It said:
>
> "Today ... the Swiss Bankers Association is publishing the list of all known ... dormant accounts",
>
> and so on. It continued:
>
> "This initiative will be administered by an international board of trustees and supervised by the Swiss Federal Banking Commission and the Independent Committee of Eminent Persons ... chaired by Paul Volcker".
>
> So far as I can recall, there was no government involvement whatever, and I am beginning to wonder why we have this legislation. I am 100 per cent in favour of the objectives of uniting the accounts with their owners on the one hand and the money being made available for charitable purposes on the other. However, I am beginning to wonder whether the Government feel somehow that arranging it in this way will mean that some credit will fall on them because of the charitable purposes aspect. One of the concluding paragraphs in the advertisement that I have just quoted reads:
>
> "The Swiss banks are committed to using unclaimed ... funds for humanitarian or charitable purposes",
>
> which indeed was the case. So I begin to wonder whether it is necessary to set out in detail in the legislation how the fund is to be set up, what the basis of it should be and so on. On the other hand, Schedule 1 spells out a number of bits of information without in any sense being comprehensive, and the debates that we have just had deal with the issues piecemeal.
>
> As I said, I begin to doubt whether the objectives cannot be fulfilled otherwise. If we are to go down the legislative route, I hope that between now and Report we can come up with a schedule that spells out all the points that have been picked up in the debates over the past hour or so. I do not think that you can have a schedule setting out odd bits here and there but omitting other important points.[57]

The Minister, Lord Bach, defended the role of legislation as follows:

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[56] Ibid GC466
[57] HL Deb 11 December 2007 GC99

> The heart of the question put to me by the noble Lord, Lord Higgins, with his vast experience, was: why do we need government legislation at all? Frankly, we need the legislation in order for banks to be able to cancel their liabilities to customers in the first place when they transfer their money. If we did not pass this legislation, there would be no way in which banks could cancel their liabilities to customers, and they would then keep those liabilities on their balance sheets while losing the assets. At heart, that is why we need the legislation.[58]

g. National Savings (NS&I).

Most commentators have pointed out the apparent asymmetry of treatment between dormant assts held in the public sector (principally those held in the various vehicles run by NS&I) with those originating in the private sector since the former are excluded from the scheme. This is no mere debating point: according to evidence to the Treasury Committee, dormant sums in NS&I amount to £1.8 billion in accounts and up to £25 million in premium bonds. Later evidence from NS&I, recalculating the sums according to the Bill's definition puts the level of unclaimed assets at £993 million.[59] These sums dwarf the entire expected private sector contribution to the reclaim fund.[60]

The Treasury Committee Report into the scheme recommended that NSI funds should be included. In its response the Government set out its reasons for rejecting this decision. The Committee's recommendation was:

> 9. If the Government considers that specific use for identified good causes is the best use for the dormant accounts held by others, the Government should apply the same principle to accounts held by NS&I. On the grounds of equity between financial institutions, we recommend that NS&I be brought into the scope of the Unclaimed Asset Scheme. If that scheme is to be voluntary, we recommend that the Government volunteer NS&I's participation. (Paragraph 40)

The response was:

> The Government has considered the case for NS&I's inclusion in the unclaimed assets scheme in detail, and has taken into account the points raised by the Committee. The Government position remains that the unclaimed assets held in NS&I accounts should not be included in the scheme.
>
> Unclaimed assets in banks and building society accounts are held on the balance sheets of these institutions. The unclaimed assets scheme will change this by using the assets to benefit the wider community. By contrast, NS&I does not hold any of the money invested in its products on its own balance sheet. Instead, the monies are passed directly to the Exchequer where they are used to fund public services. This means that money in NS&I accounts is already benefiting the community.

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58 Ibid GC101

59 Treasury Committee, *Unclaimed Assets within the financial system*, written evidence 109, HC533

60 Treasury Committee, *National Savings and Investments Annual Report and Accounts 2004-05.* Oral evidence given by Mr Alan Cook (Chief Executive) and Mr Trevor Bayley (Finance Director), 19 October 2005, HC 575-i. http://pubs1.tso.parliament.uk/pa/cm200506/cmselect/cmtreasy/575/5101901.htm

> As NS&I's unclaimed assets are used for public spending, including NS&I's unclaimed assets within the scheme would require the Government to fill the gap that would be created by the transfer of assets to the scheme either by raising further funds to meet its public spending commitments or by cutting existing expenditure plans. Both alternatives would have an adverse effect on the taxpayer. NS&I, as part of Government, is therefore different from banks and building societies in such a way that would make it inappropriate to apply the principles of the scheme to unclaimed assets held in its accounts.[61]

The key to the Government's defence is that NS&I 'funds' public expenditure and this was repeated, and defended, in the Lords by Lord Davies:

> The function of National Savings and Investments is only to borrow money for the Government. All of the money it borrows from the general public is used to fund public spending. This means that money deposited with National Savings and Investments is already being used for the public good, as defined by the priorities established by the democratically elected Government. The liability to pay the National Savings and Investments customer lies with the Exchequer on the National Loans Fund, not with National Savings and Investments out of its own balance sheet.
>
> The answer to the noble Baroness, Lady Noakes, is quite straightforward: funds deposited with National Savings and Investments are classed as national debt and reduce the amount that the Government need to raise through taxation. Including NS&I in the scheme would mean that we were diverting money that would have been spent on public services to the objectives identified in the scheme. Therefore, the Government would have either to cut planned public spending or to find an alternative way to fund it, having seen these funds being diverted elsewhere. In other words, it would increase the burden on the taxpayer, who would bear the cost either directly through higher taxes or through high-interest costs on the national debt.
>
> **Baroness Noakes:** Will the Minister explain that? If the Government wanted to repay National Savings & Investments—and transferring money out of National savings & Investments is like repaying it—one kind of debt would be swapped for another. The amount of debt on the balance sheet would stay exactly the same. What is all this about having to cut public expenditure? I do not understand. One just borrows some money to replace one set of debt with another set of debt.
>
> **Lord Davies of Oldham:** The resources available from National Savings & Investments would have been diverted to the objectives defined in this legislation, so the funds would not be available to the Government for other priorities.
>
> **Lord Higgins:** If the Government have borrowed the money from these people, they owe it to them. The fact that the Government pay those people back merely means that if the Government want to borrow elsewhere, they have to do so. Whatever happens, they still owe the money to the depositors.
>
> **Lord Davies of Oldham:** Of course they do when money is successfully identified as being owed to the borrowers, but the intention behind the scheme is that the totality of the resources in the reclaim fund from accounts that are regarded as

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61 *Treasury Committee Eighth Report 2006/07, Government Response*, HC 1028

> dormant is transferred to other objectives. At present, those resources are used for public expenditure.[62]

This is a rather complicated argument to follow. The Government would have few allies if it seriously suggested that every pound taken from NS&I automatically lead to, for example, a pound less being spent on education. Clearly, the NS&I role is to fund public expenditure rather than to pay for it directly. Governments borrow money from a variety of sources and the Debt Management Office is responsible for providing a given funding requirement as cheaply as possible. NS&I is one element of this and the interest rates offered by it reflect, in part, how much the government of the day wishes to borrow from this source.

The extra tax burden alluded to by the Minister reflects the fact that NS&I savings rates are often at the lower end of rates on offer generally reflecting the value of the absolute guarantee that NS&I cannot become insolvent. This cast iron premium allows the government to borrow money more cheaply from the public, than it can from the money markets generally. If the government had to borrow £1.8 billion (about 0.5% on basic rate income tax) from the markets to fund NS&I repayments of dormant money, the extra interest rate cost would have to be paid for out of government revenue; possibly taxation. Of course, it could be argued that it is the very size of the potential repayment, rather than its principle, that has persuaded the Government to keep NS&I out of the CRF. It should be noted that NS&I is participating in the repatriation of dormant funds scheme with other banks and building societies mentioned above.

In the Lords, the Minister distinguished between the 'private purposes' to which dormant money was currently put by banks, from the public purposes NS&I money was put. What he did not distinguish was why these public purposes were superior to the public purposes, set out in the Bill, to which private money will henceforth be put.

3. Part two: distributing the money

a. Determining expenditure

According to the Bill (clause 19) in England, money will be distributed for the purposes of 'meeting the needs of young people'; improving financial inclusion; or to fund a social investment 'wholesaler'. Distributions in Wales, Scotland and Northern Ireland are left for the respective Assemblies to decide upon. The distribution between assemblies would be determined, the Government expects, by "a population-share formula".[63]

The Government admitted that it could not say how much it expected to be spent on each category, but indicated that "the main priority for distribution of funds in England will be youth services".[64] The Government's preference for youth-related issues explains the fact that the Secretary of State for Children, Schools and Families is envisaged as being the 'Secretary of State' wherever that appears in the Bill. There was a lengthy debate on the rival merits of a social investment bank as being the priority target for funds. Arguments included the fact that an investment bank would produce better long-term

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62 HL Deb 11 December 2007 GC104
63 HL Deb 15 January 2008 GC474
64 HL Deb 11 December 2007 GC373; HL Deb 15 January 2008 GC481

benefits and that there was something appropriate about using these funds to establish a bank. The Minister hinted that the inclusion of the financial education objective was done more at the behest of the banks than Government:

> He will recognise also that we are dealing with money that is certainly not the Government's, but is private. Therefore, we needed to negotiate desirable outcomes with the organisations concerned. One priority is improving financial literacy, which has a role to play. [65]

Previous debates on additionality (see above) stressed the 'bottom up' nature of grant distribution, but, at a different level the Government will have an important say. The Minister outlined Departmental involvement:

> Without being bound by it, I say that the departments that clearly have an interest in the priorities identified for distribution of funds include the DCSF, the Cabinet Office as far as it deals with the Office of the Third Sector, the DCLG, the DCMS and the Treasury—the noble Lord was spot on when he named them. It is intended that a working group of officials from those departments will be convened to develop draft spending directions to Big, including the split of assets between priorities, but someone has to make the final decision and that will be the Secretary of State as mentioned.
>
> The working group will be able to make firm recommendations only once it is clear how much will be available, although it could do some scenario planning based on certain thresholds. We would expect the terms of reference for that important working group to be confirmed early next year.
>
> Of course, the DCMS will have responsibility for ensuring that Big is a fit-for-purpose organisation for distributing lottery money, with the appropriate operating systems in place. We believe that the DCSF will be able to place considerable reliance on that. And of course it will be for each department to satisfy for itself that Big is distributing the funds for which it is responsible in accordance with its direction and, in so doing, is meeting its objectives.[66]

It was required of the Lottery fund that decides on the distribution of funds, to account for reclaim funds separately from other lottery funds.

4. Distributing money to the devolved authorities

Clauses 20 to 22 include the arrangements for money to be distributed to the devolved authorities. As has been mentioned above there is no direction in the Bill for these authorities as to how the money should be spent equivalent to that in clause 19 which covers England. In the Lords, Lord Howard of Rising characterised the situation in this way:

> The various Executives will presumably choose to spend this money on things that come within the remit of devolved matters. That may be true but it in no way

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65 Ibid GC496

66 Ibid 15 January 2008 GC481

> changes the current situation in which undisclosed percentages of money raised from dormant bank accounts are to be spent on undisclosed matters[67]

The Minister pointed out that on constraint one the devolved institutions was that under clause17 (1) BIG was only empowered to "distribute dormant account money for meeting expenditure that has a social or environmental purpose".

5. Other issues

Remaining clauses in the Bill, not discussed in the Lords, give the Secretary of State, power to issue directions to BIG covering a wide range of policy and operational matters (clause 21); the power to prohibit distributions (clause 22); and a power to add or remove distributors (clause 23).

6. The Bill: sources of documentation

The Bill was introduced into the Commons on 27 February 2008. The long delay between its introduction and Second Reading is not reflected in significant amendments to the Bill either made during its passage in the Lords or by new Government amendments. The Bill has gained clauses reflecting the view in the Lords that there should be a review of the scheme at regular intervals. The most significant change is to clause 2 and the potential exemption for all building societies from the scheme, allowing them to contribute instead to local charitable foundations of their own choosing.

Official material on the Bill (the Bill, previous consultation papers, notes on clauses, impact assessment etc) is collated on the Treasury website

Unclaimed assets scheme, HMT information

It is a Bill of 33 clauses in two main parts: Part 1 (clauses 1-16) deal with (put simply) the taking of money from the banks and giving it to the Reclaim Fund; and Part 2 (clauses 17-33) deals with how and to what purpose the money will be spent. The Treasury's summary of the Bill as it appears on their website is shown below:

> Principles of the unclaimed assets scheme
>
> The key principles of the proposed scheme are:
>
> wherever possible to re-unite account holders with the assets that are rightfully theirs;
>
> to provide a legal right for account holders to reclaim their money at any time;
>
> to take a light touch approach which minimises running costs for the scheme and participating institutions by wherever possible building on existing infrastructure in order to maximise the money available for reinvestment in the community; and

[67] Ibid GC 501

to take account of better regulation principles. The proposed UK scheme will therefore differ significantly from other international arrangements being, in part, a self-regulatory scheme.

Principles underpinning the distribution of available assets through the Big Lottery Fund are:

distribution to be managed on a devolved basis, with distribution in England to focus on youth services that are responsive to the needs of young people, followed by financial capability and inclusion. Resources permitting, the Government would also like to see a proportion of assets used to boost social investment and develop the long-term sustainability of the third sector. The devolved administrations of Scotland, Wales and Northern Ireland will determine their own priorities for distribution, which may differ from those of England;

a fair distribution of assets across all four countries of the United Kingdom;

spending to be additional to Government provision, in a manner that takes account of the role of the third sector in the delivery of spending priorities;

a distribution process that is fully accountable and transparent;

the available resources, in England, used to deliver practical projects in local communities;

distribution to be managed efficiently, with as little resource as possible being spent on administration and running costs; and

distribution in England to focus on a diverse range of communities across the country.[68]

III Reaction to the Bill

A. The Banks

As stated above, there were long negotiations between the Treasury and the banks in order to arrive at an agreed voluntary scheme. Hence, the response of the banks to the Bill has been, publicly, positive.[69] Most positive has been the establishment of an across industry initiative to reunite people with lost money: http://www.mylostaccount.org.uk/. It appears to be popular with the public: latest figures for usage show visits ranging from 137,000 and 487,000 a month between July 2007 and February 2008.

B. The Charities

A coalition of charities, the Unclaimed Assets Charity Coalition, are critical of the scheme as it stands now, believing that the Bill "could represent a huge missed opportunity to right a significant wrong".[70] Essentially the charities think that the proposed system will mean that they will continue to miss out on legacy income. The argument is simple: people die and leave money to charity in their will. Forgotten assets reduce the value of

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68 HMT website

69 Briefing by the charities (see above) claims that the banks were "extremely reluctant to come into the scheme"

70 *Unclaimed Assets Charity Coalition* Briefing for Lords stages, p2

the estates and thus the size of the bequests to charity. Their briefing gives an example of how the charities lose out:

> When a person dies leaving a Will, the Executor of that Will and/or the person's next of kin can miss paperwork relating to some assets when arranging the person's affairs. Similarly, relevant banking paperwork may have been destroyed or lost or simply may not exist. This issue will affect a significant proportion of the existing unclaimed assets in the UK. Efforts to release unclaimed assets in this country have always been extremely limited, and therefore we expect that the majority of such assets will have belonged to people who have now died.[71]

They propose the creation of a register which, amongst others, the charities could interrogate to determine whether a legator also has forgotten bank accounts. They are looking for a database which could be searched with little more than the name of the deceased and which would contain all the assets of that person.

The alternative m*ylostaccount* procedure works the other way around and is based on the assumption that the searcher has a good idea of what accounts might exist and about other matters, such as where the accounts are likely to be geographically. Clearly, such a procedure makes it a lot harder for charities to carry out the automatic searches of the types they envisage, than under their register system where they only need to know a person's name.

IV Legislation abroad

The Consultation Paper refers to the existence of similar legislation in other countries. This is indeed the case, although not all elements of the UK plan are present in other schemes, indeed in several cases the overseas legislation is akin to that of existing UK practice. For example, in the Netherlands, twenty years after the last transaction relating to a bank account, the assets in such an account revert to the bank and are held in a central bank account. The practice is not entirely uniform. Some banks adopt a dormant period of thirty years. In all cases, banks will pay out the account to the rightful claimant, if the claimant can identify himself and the claim can be proved/justified regardless of the elapsed time. There is, however, no formal social recycling of the funds thus confiscated. Since it is both geographically close and recently introduced, it is worth looking in some detail at the experience of dormant funds legislation in Ireland. Information is also provided on schemes in France, Italy and Spain. Of other major European countries, neither Sweden nor Germany have legislation in this area. Most of the information below was provided directly from overseas Parliaments.

A. Ireland

The question of what to do with dormant accounts had been discussed in Ireland for many years before the *Dormant Accounts Bill* was introduced in 2001. In 2000, the Department of Finance had examined the issue but had concluded that it "would not be easy to formulate a proposal and draft legislation in a way that would eliminate the risk of

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71 *Unclaimed Assets Charity Coalition* Briefing for Commons Stages , p2

a successful legal challenge".[72] The overriding concern was that the state had no legal right to take the money in dormant accounts from financial institutions.

However, momentum for some sort of legislation had been building. In the late 1990s, a major scandal involving some of the leading banks was uncovered. Some banks had actively (and others passively) aided their customers to evade tax on interest payments by designating customer's accounts as non-resident accounts. Residents of Ireland are liable for tax on interest payments[73] while non-residents are not. Following reports in newspapers in 1998, an investigation by the Controller and Auditor General (the body which audits State accounts in Ireland) uncovered the extent of the problem and a parliamentary committee (the Public Accounts Committee) also had an inquiry into the issue. The Revenue Commissioners collected approximately €834 million in tax, interest and penalties between 1999 and 2005 from bogus non-resident account holders.

The parliamentary inquiry concentrated on the extent of knowledge that officials in both the banks and relevant state agencies (such as the Revenue Commissioners) had of the problem of bogus non-resident accounts. This knowledge turned out to be extensive. One of the recommendations of the committee was to remove the money in dormant accounts held by financial institutions and use it for the good of society.

The amount of money expected to be in these accounts, using a definition of dormancy of 15 years, was €178 million euros. In fact, in the first year of operation €194 million was transferred to the State.

Initially much of the focus in the legislation and the media was on finding the beneficial owners of dormant accounts. There was a widespread media campaign before the initial money was transferred to the state, in addition the financial institutions made efforts to contact the owners of dormant accounts.

The *Unclaimed Life Assurance Act* (2003) brought in a similar procedure for unclaimed life assurance polices. Life assurance policies are considered unclaimed if (a) in the case of a policy with a specific term which has expired, the insurer has received no communication from the policy holder for a period of five years or more or (b) in the case where the policy does not have a specified term, the insurer has received no communication for 15 years or more.

The National Treasury Management Agency set out these procedures in more detail in an article from its website:[74]

> Under the Dormant Accounts Act 2001 and the Unclaimed Life Assurance Policies Act 2003, balances on dormant accounts in banks, building societies and the Post Office and the net encashment value of certain life assurance policies are remitted to the State and disbursed for charitable purposes or purposes of societal or community benefit. The amounts due to be so remitted are transferred to the Dormant Accounts Fund not later than 30 April each year. The period for determining dormancy is normally fifteen years since the last customer-initiated

[72] See Irish Times 28/04/2000 *State to seize dormant accounts but, hey, that's the American way*
[73] This tax is know as D.I.R.T. – Deposit Interest Retention Tax and is taken at source.
[74] http://web.archive.org/web/20071119035822/http://www.ntma.ie/Publications/2007/NTMA_INFO_07.pdf

> transaction. However, in the case of life assurance policies with a specified term, it is five years after the end of that term.
>
> The legislation guarantees the right of account and policy holders to reclaim their funds from the financial institutions in the event that their dormant account or life assurance policy is reactivated. The NTMA is obliged to determine the amount to be paid into the Reserve Account of the Fund to meet such reclaims and also to meet expenses. This reserve has been set at 15 per cent of the total amount in the Fund with the approval of the Minister for Community, Rural and Gaeltacht Affairs and the consent of the Minister for Finance. The balance of the Fund is available for disbursement. Decisions on disbursements are made by the Government. The role of the Dormant Accounts Board, established on 4 January 2006 under the Dormant Accounts (Amendment) Act 2005, is to advise on priority areas for funding and to monitor the impact of this funding. During 2006 the Board published a new Disbursement Plan in accordance with its statutory obligations.
>
> Pending disbursement, moneys in the Dormant Accounts Fund are managed by the NTMA. In that regard, the NTMA had €211 million under management in the Fund at end December 2006, as compared with €204 million at end 2005. Some €80 million was transferred to the Fund in 2006, while almost €45 million of previously dormant funds was reclaimed. In 2006 disbursements from the Fund were in excess of €33 million.

The Department responsible for dispersing the funds on behalf of government is the Department of Community, Rural and Gaeltacht Affairs . Initially a Dormant Accounts Fund Disbursements Board (DAFDB) was responsible for overseeing the disbursement of these monies from the Fund. However, the 2005 Act gave responsibility to the Government, dissolved the (DAFDB) and set up the Dormant Accounts Board (DAB) to give advice on disbursement and appraise Government decisions. The Board has produced a disbursement plan on how money from the Dormant Accounts fund is to be spent.[75] It sets out the priority groups that funding is targeted at, namely those who are affected by (a) economic or social disadvantage (b) educational disadvantage or (c) by a disability. The disbursement plan also sets out the underlying principles of the funding of projects. These principles include that the projects should:

- be additional to and not a substitute for other Government projects;
- are compatible with Government policy;
- can demonstrate an impact;
- are sustainable and offer value for money;
- show evidence that the project cannot get funding from other sources; and
- demonstrate that the organisation promoting the project is capable of carrying it through.

[75] See http://web.archive.org/web/20071119060025/http://www.pobail.ie/en/DormantAccounts/DisbursementPlan/file,7963,en.pdf for more details

A total of €60 million was approved for dispersal in 2006. A list of successful applications for funding can be found at:

http://web.archive.org/web/20110518214103/http://www.pobail.ie/en/DormantAccounts/Round2FundingApprovals/

Many of the dormant accounts funding measures are administered on behalf of the Department of Community, Rural and Gaeltacht Affairs by Pobal, an independent not-for-profit company with charitable status that manages programmes on behalf of the Irish Government and the EU.[76]

A round-up of similar schemes around the world in the *Banker* produced the following comments about Ireland:

> In Europe, Ireland appears to lead the charge and its Dormant Account Act 2001 states that financial institutions have to contact customers if they have not completed a transaction on their account in 15 years or more. If the institution cannot contact the customer, the money in the account will be taken over by the state. Funds in accounts that were not reclaimed by the end of March 2003 have been transferred to the Dormant Accounts Fund, set up and managed by the National Treasury Management Agency (NTMA).
>
> In its short life, this Irish fund has accumulated E300m, with E196m transferred over by banks and building societies in the first year of the legislation.
>
> UK accountancy firm Grant Thornton, looking at the Irish model, notes: "The UK government estimates that over oe5bn might be held in dormant bank accounts in the UK, although the financial services industry believes the figure to be closer to oe1bn. Considering that the UK population is around 15 times that of the Republic, the actual amount [to be used in a fund] could easily exceed oe2bn."
>
> Grant Thornton partner Patrick Storey explains: "Looking at it another way, the first transfer in Ireland was almost four times even the Irish government's early expectations. If such a situation was replicated in this country, UK dormant accounts could yield up some very substantial riches. The UK Commission on Unclaimed Assets itself has indicated that the government's figure of oe5bn could be at the lower end of the spectrum." [77]

Although seemingly working well, there was considerable argument in the Dail about the legislation to take disbursement of funds away from an independent body and give it to a Government department instead. In the debate the Minister cited the size of the fund, the ad hoc nature of the administration and support for the disbursal fund, and:

> If we are serious about tackling severe disadvantage, the State must use all available resources for this purpose using a focused and sustained approach. In this regard, it must be ensured that spending from the fund is co-ordinated with policy priorities identified by Government and debated in this House. It is doubtful that current arrangements can secure optimal impact in this regard.[78]

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[76] http://www.pobal.ie/live/DAF
[77] *The Banker* 1 March 2006
[78] Dail Debate 3 February 2005, ret'd 10 March 2008

The Opposition however, regarded the change as:

> … a prime example of an underhand attempt by the Government to put its hand in the cookie jar and take out the treats contained in the dormant accounts fund and use these significant funds for its own benefit. It is clear the bottom line agenda, no matter how the Minister will try to justify it, is that two years away from an election the Government hopes to buy the election by flashing the cash and giving to its own pet projects.[79]

B. France

In France, legislation exists with respect to assets in banks and investment funds. Those assets left untouched or ignored in banks for 10 years are transferred to a 'deposit account'. For shares, if holders cannot be contacted for a period of 10 years (despite being invited to attend AGMs), their shares can be sold. The net sum of the sold shares is held on behalf of the owner on a frozen account for 10 years, after which the monies are transferred to the 'deposit account'.

Unclaimed assets held in the 'deposit account' totalled €747 million as at end 2005, they (including any interest) are transferred to the Treasury 30 years after the last operation of the account (i.e. 20 years after being held on the 'deposit account'). Rightful owners are contacted to acknowledge their assets one year before assets are definitively transferred over to the State.

An exception to this law applies to people who have been in hospital. Any unclaimed assets for a period of one year belonging to a person who has come out of hospital or died in hospital are transferred to the 'deposit account' and are fully transferred to the Treasury five years after that (i.e. a total of six years), unless the money is claimed by the rightful owner in that period.

C. Italy

In Italy the 2006 *Finance Act*-equivalent introduced regulations about dormant accounts ‘somme giacenti’ but which are commonly referred to in public as ‘sleeping accounts’, or ‘conti dormienti’. The law includes a range of bank accounts and qualifying life policies (those in excess of €100). ‘Giacenti’ is defined as a period in excess of ten years.

In a similar way to the intention in the UK the sums are positively recycled. In this case they are paid into a "Fund for the victims of financial frauds" (art.4), but recently (by virtue of an amendment in the 2007 ‘Finance Act’) part of the revenues can be used for recruitment in the civil service.

D. Spain

In Spain, unclaimed assets are regulated by Section 18 of Law 33/2003 on Public Administration Assets/Heritage. The law includes a broad range of money, assets, and all similar instruments deposited in every financial institution and in the General Fund of Deposits. The period of dormancy is defined as being no activity on the account for a period of 20 years.

Financial institutions are obliged to communicate to the Ministry of the Treasury the existence of dormant (and potentially dormant) assets and their existence is reflected in the institutions accounts. Once identified and subject to the appropriate treatment for that asset the assets revert to Spanish Treasury through the General Directorate of the State Assets. Consequently, the amounts become public revenues in the same way as taxation or other Government incomes. The resources are not hypothecated in any way and are used as general public spending or savings.

There is less certainty in Spanish law for restitution of confiscated assets should the rightful owner suddenly reappear since the law is silent on this aspect. The depositor would complain to the original financial institution in the first instance, then to the Central Bank – the Bank Customers Service of the Bank of Spain. It is doubtful whether the supposed owner could impel the Bank to return the money, as it was the financial institution who considered the amounts of money neglected.

[79] Ibid