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Unclaimed financial assets / dormant accounts

By Timothy Edmonds

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Summary

This note explains current moves to provide a mechanism for using unclaimed financial assets for charitable purposes, outlines the scale of the issue and provides advice on how constituents can check to see if they can reclaim any ‘lost’ assets. A more complete account of the issue can be found in Library Research Paper 08/73 which was produced for the passage of the Dormant Bank and Building Society Accounts Bill, in 2008.

A Report by the Dormant Accounts Commission published in 2017 said that almost £1 billion had been transferred to the Reclaim Fund for onward distribution. It made a series of recommendations which, if accepted would significantly extend the scope of the scheme and reform its administration.

The Government announced in February 2018 that it was minded to accept the Commission’s advice that the scheme could be expanded and that, in particular “there is substantial potential for dormant insurance and pension products to be included in the scheme”.

1. Policy developed

In the Budget Redbook 2004, the then Chancellor, Gordon Brown, made the following statement:

> **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.
>
> **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.[1]

This announcement followed several private members' bills with the same aim and some limited industry initiatives.

1.1 The scale of dormant accounts

Estimates at the time of how much was dormant varied, they ranged from huge to staggering. A table produced by the Unclaimed Assets Register at the time is shown below:[2]

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

Dormant accounts in banks and building societies are the biggest single source of unclaimed money, but, despite its keenness to tackle the problem, the Government has, in the form of national savings, substantial dormant funds of its own. These have remained outside of the scheme.

1 *Budget 2004,* HC 301 2003/04
2 Source: Unclaimed Asset Register

It is clear that 'blame' for the situation can be levied at many, or no, doors. An article in the Times explains the frequent routes for dormancy to take root.

> 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."[3]

1.2 Redistribution of unclaimed assets

The announcement in the 2004 Budget that a scheme was to be introduced, provoked considerable speculation about what the banks would, voluntarily or not, do.

One argument levelled against banks is that because they benefit financially from unclaimed funds and thus have only limited incentive to do anything about them. Banks can write off dormant accounts once they have been inactive for a certain period (normally a year in the case of a current account, two in the case of a savings account). Press reports suggest that banks might benefit to the extent of £30 million a year from dormant accounts.

Articles in the press from 'Treasury officials' highlighted the banks' practice of routinely using unclaimed assets to bolster their financial performance. A Financial Times article noted moves designed to put pressure on the banks to act generously:

> 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.[4]

A later 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

3 *Dormant accounts boost banks' profits*, Sunday Times 25 April 2004
4 *Dormant accounts boost profits,* Financial Times 20 April 2004

> customers' dormant accounts to charity. 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".[5]

Small advances in preparation for the Government's initiative were announced in the Pre- Budget Report 2005.[6] The most definite decision was the definition of dormancy: 15 years. 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.[7]

The implication of the choice is that after a substantial start-up contribution, the flow of new funds to the good causes is likely to be modest, perhaps in the low tens of millions depending on how it is calculated.

The other advance was the indication given by the Chancellor as to the likely use that these funds will be put. The Chancellor said:

> 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

[5] *Brown plans the £15bn bank heist* Sunday Times 8 August 2004
[6] Pre- Budget Report 2005, Cm 6701 pp5.79-5.83
[7] See BBA website

> 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. [8]

At this stage (it will be seen that the destination of dormant funds has shifted significantly since the start of the process) the decisions over the allocation of funds was to be by the Commission for Unclaimed Assets which worked in conjunction with the Scarman Trust. 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".[9]

The Commission outlined its objectives:

> 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
>
> - Identifies means to maximise the impact of the funds by leveraging in other forms of funding to increase overall investment in disadvantaged communities.[10]

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

8 HC Deb 5 December 2005 c614
9 Unclaimed Assets Commission Press release 5 December 2005
10 ibid

Scheme consultation

HMT consultation document on UK unclaimed assets scheme[11]

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) which would receive dormant funds;
- the reclaim fund would be an independent body, independent of the industry and government alike.
- account holders will 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 would have funds and it a duty to invest and manage these funds. It would simultaneously be seeking to maximize the funds for distribution and provide sufficient reserves to pay out on claims. It was anticipated that the CRF would be regulated by the Financial Services Authority.

How to deal with customers

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

Unclaimed Assets distribution mechanism[12]

The second of the two Treasury consultation documents discussed how money from the CRF would be distributed to the deserving causes. It was informed by the prior publication of a report by the Commission on Unclaimed Assets called The *Social Investment Bank,* in March 2007.[13]

Social Investment Bank

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.

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11 HMT; Proposals for a UK Unclaimed Assets Scheme; March 2007

12 HM Treasury: Unclaimed Assets distribution mechanism: a consultation; May 2007

13 The Unclaimed Assets Commission; The Social Investment Bank; March 2007

- SIB should have four activities, capitalise 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'.

Delivery mechanism

The Treasury Report set out three priority destination for funds: youth services should be the 'main focus', 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'.[14] The principles on which the money would be allocated were set out as being:

- fairness between 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.

The other main proposal concerned the way in which money was allocated and distributed. "The Government proposes using 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. According to the paper "BIG has extensive experience of investing often large sums of money directly into frontline services, as well as via existing intermediaries".[15] Later it emphasised that "Unclaimed assets will not be used to supplement existing Lottery funded activities".

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

Alongside the Government's initiative, it is also pertinent to note parallel initiative set up by the banking industry, the Balance Charitable Foundation, established partly in response to previous criticism.

The Balance Charitable Foundation (BCF)

A press release from the BCF outlined its structure and membership:

> 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.

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14 Op cit p 6
15 Op cit p 24

> The Foundation has the power to support any charitable work in the UK or overseas compatible with UK charity law.
>
> At present the initial trustees expect to concentrate on a wide variety of social exclusion issues, including the educationally disadvantaged. They are likely to be willing to provide sustained long term support for significant initiatives in the development of new services, recognising that these may take time to reach proof of concept and then evidence of viability.[16]

An article in *The Guardian* described the support given to the BCF by government.[17]

> 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."
>
> Balance Foundation chief executive Richard Compton-Burnett welcomed the Treasury's support. He said: "We always had our eyes on the main prize of uniting unclaimed assets across the financial sector to make a real difference in the charitable sector.
>
> "This announcement by the chancellor now gives the foundation and financial institutions of all types the chance to unite in creating one of the biggest private sector-led charitable foundations this country has seen."
>
> Michael Webber, one of the foundation's trustees and a former charity commissioner, said: "We will work with all the relevant organisations and representative bodies over the coming months to build what we believe will be one of the most remarkable examples of private sector charitable initiatives in the world."
>
> The foundation said it would consult voluntary sector umbrella bodies and financial services organisations on the way forward, with a seminar organised with the Charity Commission and the Treasury.

Between 2003 and 2007, the BCF developed its ideas and capabilities. In March 2005, it announced foundations for the vulnerable and disadvantaged and for older people at risk from exclusion.[18] Since the BCF was outside government plans, inevitably the two strands could not continue effectively alongside each other. In some respects the BCF was an experiment to trial the possibilities and problems that might arise with a broader scheme, and to provide a template for other companies outside of the remit of the Act, see below, to follow should they so wish. In its 2006 accounts the trustees announced that the scheme would close after having released over £8 million in funds to charity. A

16 Balance Foundation Press release, March 2004
17 *Brown backs new foundation:* The Guardian, 18 March 2004
18 Balance Foundation Press release March 2005

full account of the work of the BCF can be found in a Report commissioned by the Gatsby Foundation.

2. The Dormant Bank & Building Society Accounts Act 2008

Alongside the banks' development of their internal policies the promised legislation was published in November 2007.

The Bill was introduced in the Lords by the Minister in the Lords, Lord Davies of Oldham. He set out the main features of the Bill at the start of his speech on Second Reading.

> 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 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.[19]

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

- The Bill was not the scheme itself.
- The Bill did not force banks or building societies to participate in the scheme.
- It did 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'

[19] HL Deb 21 November 2007, cc871-2

regulatory regime they sought to impose. Baroness Noakes, speaking for the Opposition, described the relationship between government and the participating financial institutions as an "uneasy truce, or a fragile agreement".[20] 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.
>
> 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.[21]

Whatever its benefits, the result of having a voluntary scheme meant that aspects of the operation and administration of the scheme remained to be decided upon outside of the legislative structure.

2.1 The legislative framework

The Act:[22]

defines the parameters of the scheme:

- Bank (Section 7): an authorised deposit taker that has a head office or branches in the UK
- Balance (Section 8): the amount outstanding on an account, less fees and charges, plus interest
- Account (Section 9): money only accounts, i.e. excludes share holding accounts
- Dormant (Section 10): the holder of the account has initiated no activity on the account for more than 15 years

It also provides an option (Section 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.

[20] HL Deb 10 December 2007, Ibid.GC c10
[21] Ibid GCc11
[22] Dormant Bank and Building Society Accounts Act 2008 c.31

management and distribution of dormant funds

There are two key mechanisms of the scheme –

- the central reclaim fund (CRF) which is the initial destination for all dormant assets identified by the banks and building societies; and
- the Big Lottery Fund (BIG) which is the infrastructure to distribute CRF assets.

The Act only provides limited detail for these. The establishment of the CRF was left to the banks to organise, subject to approval by the regulator – the Financial Services Authority.

Section 16 of the Act authorised BIG to distribute funds but apart from reserve powers of Ministers to direct, or prohibit certain distributions by Order (Section 22), the daily operation and administration of BIG was left in the hands of the Lottery organisation within which it was based.

This hands - off approach was criticised in the debate in Grand Committee. At one stage the Minister, Lord Bach, 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.[23]

Work to set up the CRF was taken forward by the Co-operative Financial Services Group and the result, Reclaim Fund Ltd, finally received FSA authorisation in March 2011.[24]

the legality of balance transfers

The Act also addresses the issues which had concerned the banks namely, the legality of giving away their customers' money. Sections 1 and 2 of the Act transfers the rights to balances distributed from the banks to the CRF. Section 12 of the Act dissolves the banks from any duties imposed with respect to the confidentiality of customers' accounts subject to a transfer to the CRF.

23 Ibid GC96
24 Co-operative Financial Services press release 29 March 2011

3. Use of funds: a change of direction?

The use to which dormant money was to have been put is set out in Section 18 of the Act.[25]

> 18 Distribution of money for meeting English expenditure
>
> (1) A distribution of dormant account money for meeting English expenditure must be—
>
> (a) made for meeting expenditure on or connected with the provision of services, facilities or opportunities to meet the needs of young people,
>
> (b) made for meeting expenditure on or connected with—
>
> (i) the development of individuals' ability to manage their finances, or
>
> (ii) the improvement of access to personal financial services,
>
> or
>
> (c) made to a social investment wholesaler.

The use of money in Wales and Scotland was left to the respective national authorities. The order in which these purposes are listed was not entirely random. The Labour Government had made it clear that it saw youth services as being the priority. Even before the Bill, during the Pre-budget Debate in 2005 the then Chancellor, Gordon Brown, said:

> 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. [26]

[25] Dormant Bank and Building Society Accounts Act 2008 c.31
[26] HC Deb 5 December 2005 c614

In a consultation document issued pre-Bill (HMT consultation document on Unclaimed Assets distribution mechanism)[27] the Treasury set out three priority destinations for unclaimed funds and the social investment wholesaler as it was then called, but which came to be referred to as the social investment bank (SIB) although acknowledged was the lowest of these:

- 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".[28]

During discussion on the Bill 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".[29] 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 legislation.

In proceedings in the Lords, the Minister hinted that the inclusion of the financial education objective, its second priority, 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. [30]

One difficulty with the SIB idea was that it would need a very large proportion of the money available, to the detriment of the other plans to set it up. The Social Investment Bank report by the Commission on Unclaimed Assets of March 2007 had concluded that: "the bank will need £250 million capital and £20 million annual income for four years". In July 2009, a new consultation document was issued - Social Investment Wholesale Bank: A consultation on the functions and design.[31]

The document revived the ideas produced by the Commission on Unclaimed Assets. It set out the economic and strategic arguments for a SIWB. On funding, the paper gave somewhat contradictory indications. At one stage it said:

> We are not, through this document, aiming to identify the resources required to make it happen, which would be the next step. Before knowing what the Bank would do and how it would work, it is impossible to set out the appropriate financial resources.[32]

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27 http://www.hm-treasury.gov.uk/media/9/0/consult_unclaimedassetsdistribution170507.pdf
28 *Unclaimed Assets distribution mechanism: a consultation* HM Treasury, p 6
29 HL Deb 11 December 2007 GC373; HL Deb 15 January 2008 GC481
30 Ibid GC496
31 Office of the Third Sector under the Cabinet Office; Social Investment Wholesale Bank; July 2009
32 Ibid p4

However, it also acknowledged the role of unclaimed assets:

> The Government consulted on a UK unclaimed assets scheme in March 2007. In England, the focus of these resources will be on funding youth services that are responsive to the needs of young people, followed by financial capability and inclusion. Following responses to the consultation, the Government made it clear that it saw merit in the model of a new social investment institution and recognised a gap in the market at the **wholesale** level.
>
> The Government stated that, resources permitting, it would like to see a proportion of unclaimed assets in England used to support social investment in third sector organisations, by strengthening existing finance providers.[33]

The key here may be the words 'resources permitting'. Since the generally accepted minimum for such an institution was broadly equivalent to the total of expected unclaimed assets, any expenditures on the first two priority areas would severely undermine the effectiveness of SIB. If it was to move forward, the project would effectively require additional funding from somewhere.

Following the consultation the December 2009 Pre Budget Report announced that:

> Following consultation on the design and functions of a Social Investment Wholesale Bank, the 2009 Pre-Budget report announces a commitment to take forward further work towards the creation of a new institution. The Social Investment Wholesale Bank will aim to leverage in investment for organisations with social impact from a wide range of sources and improve their access to finance. The Bank will also aim to increase financial inclusion by supporting Community Development Finance Institutions and credit unions, and contribute significantly to innovation in public service delivery. The Bank would be mission-driven, operate at a wholesale level, and would be independent from government.
>
> **5.63** By Budget 2010, Government will finalise the model for the Bank setting out how the institution could grow over time. To fund its initial capitalisation, the Government announces its intention to commit up to £75 million of the funds expected to be released through the Dormant Accounts Scheme in England, subject to the final volume of funds and alongside funding other priorities.
>
> **5.65** The Government confirms its commitment to use the majority of the investment from dormant accounts funds to deliver new and improved youth facilities across the country, with at least 25 per cent and up to £100 million of the fund for financial capability, and up to £75 million for the establishment of a Social Investment Wholesale Bank, subject to the final volume of funds available for distribution in England.[34]

Although the SIWB as a concept appeared by now to have climbed up in the order of priorities from that set out in the Dormant Accounts Act,

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33 Ibid p8

34 Pre Budget Report 2009, CM 7747,HM Treasury p89

£75 million was still short of what most commentators thought necessary to set it up (about £200 - £250 million).[35]

The change of government in 2010 brought with it new ideas and new names for old ones. The development of the 'Big Society' theme has led to the intention to create the Big Society' bank (BSB). In a major launch of the Big Society in July 2010, the Government issued more details of how the BSB would work:

> The Big Society Bank will be an independent wholesale organisation that will work and invest its funds through existing financial intermediaries like social investors and community lenders, who in turn will increase access to finance for frontline, social organisations.
>
> As well as private sector investment, it will be funded by dormant bank accounts as enabled by the Dormant Bank Accounts Act. These are deposits of money in bank and building society accounts that people have lost track of or forgotten about over a period of time. The Big Society Bank will ensure that all the money from dormant bank accounts made available to England is put to good use for the benefit of society.
>
> The amount of funds available for distribution will be determined by the number of banks and building societies participating in the scheme, the success of the ongoing campaign to reunite individuals with their assets, and the sums held back for customer reclaim.
>
> Our target is to establish the Bank by April 2011. A key milestone will be the creation of a Reclaim Fund to protect the interests of deposit holders, as required by the Dormant Bank Accounts Act. Co-operative Financial Services are currently in the process of submitting an application to the FSA to perform this role.[36]

The main interest in this statement is the fact that now "**all** the money from dormant bank accounts made available to England is put to good use for the benefit of society".

Clearly ideas of an SIWB have now coalesced around the reality of the BSB. It is unclear as yet how closely aligned the new BSB's agenda will be to that of the original uses of dormant money intended by Section 18 of the 2008 Act.

A Library note containing more details about the BSB can be found in the Library note on it (SN/BT/5876).

[35] The capital sum to set it up would be used to generate funds for distribution, it would in itself not be distributed

[36] Cabinet Office press release 19 July 2010

4. New direction and expansion

4.1 Dormant Assets Commission

In December 2015 the Conservative Government announced the creation of a Dormant Accounts Commission. The accompanying press release said:

> A commission, launched today, will be tasked with unlocking billions of pounds worth of dormant assets, such as stocks and shares that have been untouched for more than 15 years.
>
> The funds collected will go to a number of good causes in a scheme that is set to be similar to that used by the Big Lottery Fund for dormant bank accounts.
>
> Over the next year, the independent Dormant Assets Commission will identify new pools of unclaimed assets which might include stocks, shares, pensions and bonds.
>
> The new policy drive builds on the success of the Dormant Accounts Scheme where banks and building societies contribute accounts that have been untouched for 15 years to good causes.[37]

The full terms of reference can be found here though, in brief their task was to

> provide expert, independent and impartial advice and evidence on:
>
> i) which dormant assets can be brought into an expanded dormant asset scheme, and how they can be identified by industry
>
> ii) the projected size of the funding pot this could produce for good causes
>
> iii) whether with the potential increase of dormant assets being released by industry the current system is able to manage the burden; and
>
> iv) whether any new legislation should include a requirement for improved transparency from industry on disclosing the level of assets within their sector.[38]

In March 2017 the Commission published *Tackling dormant assets Recommendations to benefit investors and society*. Having described the extensive consultations across many companies and bodies and the decision to remain focussed on financial services as the most fertile area for dormant assets that could be distributed, the Commission made four key recommendations (from the Executive Summary).

- The main principles of the existing scheme should be retained:
  - The key principles of the current scheme should be reaffirmed […] the first priority of the firm should be to seek to reunite it with its beneficial owner. […]
  - The right for customers to reclaim assets transferred to an expanded scheme should continue to exist in perpetuity.

37 Gov.uk press release 19 December 2015
38 Dormant Accounts Commission Terms of Reference December 2015

- Participation by firms in an expanded scheme should continue to be voluntary […] firms should specifically disclose and explain their approach regarding dormant assets and the extent of their participation in the scheme.

- The current scheme should include a broader range of assets:

  The Commission's assessment of asset suitability was driven by a number of criteria, including the volume of dormant assets within a specific product class, how operationally straightforward it would be to transfer the assets to a reclaim fund, and the liquidity of the assets. […]

  The Commission recommends that a broad range of UK-domiciled financial products are suitable, for inclusion, including: additional bank accounts, unclaimed proceeds from life insurance and pensions products, and non-cash assets such as dormant holdings in investment funds, shares and bonds.

  […]

  There is already an existing definition of dormancy used in the current scheme for bank and building society accounts. However, the Commission believes this cannot be universally applied and that the identification of dormancy will not be standard across all asset and product types. Instead, dormancy should be defined by some or all of: customer inactivity over time, lack of proactive action at a trigger date (e.g. maturity date), and loss of contact with customers over an extended time frame despite a reasonable level of attempted reunification activity by a firm.

- The administration of the reclaim process needs to be revised to facilitate larger flows of money.

  The Commission recognises that the Co-operative Group played an important role in initially setting up and running RFL. However, the private ownership structure presents challenges of brand risk, both for RFL and the Co-operative Group, and introduces the possibility of a reclaim fund's objectives being influenced by the policies of a parent group. In particular, the existence of a corporate parent may encourage a more conservative approach to reserving for potential future reclaims, resulting in lower distributions for the benefit of good causes, than might otherwise be the case if a reclaim fund were not part of a corporate group.

  […] the Commission recommends that, […] the [Reclaim Fund] RFL should be reconstituted. The directors of the reconstituted reclaim fund should be responsible for ensuring there is an appropriate balance between the two roles of reserving for future reclaims and making distributions for the benefit of good causes.

Currently assets that are transferred to the Reclaim Fund are in the form of cash and the reclaim value is cash plus interest. With a wider group of assets valuation becomes more difficult:

> In the case of non-cash assets (e.g. Unit Trusts), that are eligible for transfer to the fund, the Commission considered three possible methods of assessing reclaim values. These were: restitution of the asset in its original form, reflecting any market changes in value between transfer and the point of reclaim; restitution of the cash equivalent value of the asset at the point of reclaim, reflecting any market changes in value between transfer and the point of reclaim; or restitution of the cash equivalent

value of the asset at the point of transfer to the fund plus an appropriate level of interest.

The Commission considered restitution of the original asset to be impractical and felt that from the beneficial owner's perspective, the fairest and most protected option is full monetary restitution – the second option described above. However, the Commission recognises that this option is complex and may present significant challenges.

- It is envisaged that new legislation may be required.

Within the detail of the proposals in the Report the Commission comment on what was regarded as one of the main omissions of the original scheme – namely the exclusion of National Savings & Investments (NS&I) assets (see above). The Commission's view was that NS&I assets (along with the about to mature Child Trust Funds) should "be reviewed or reconsidered". The recommended extensions to the current scheme are shown below:

Assets recommended for inclusion in expanded Dormant Assets Scheme

	Asset	£ millions est'd
Banks and building societies	Foreign currency cash balances	11
Insurance and pensions	Savings endowments Term insurance Pensions Annuities Whole-of-life assurance Income drawdown; and Investment bonds.	450
Investment and Wealth management	All cash and non cash assets	715
Securities	Dividends, shares and bonds	na

Source: Dormant Accounts Commission; *Tackling dormant assets Recommendations to benefit investors and society.*

It should be noted that unclaimed insurance policies and pensions had been included in a previous review of unclaimed assets which focused upon reducing potential state subsidies to the Financial Assistance Scheme which covered underfunded pensions schemes prior to the Pension Protection Fund.[39]

[39] DWP; *Financial Assistance Scheme: Review of Assets*, December 2007

Government's Response

The Government published its response to the Commission's Report in February 2018. Stating that it "agrees with the Commission that there is significant potential to expand the dormant assets scheme to a wider range of asset classes" it then set out how:

- expansion of the scheme will be led by industry, which has been an integral part of the scheme's success to date. The Government's role will be to encourage and facilitate the expansion of the scheme by considering legislative change, which will allow the financial services sector and RFL to drive forward this work.
- as the scheme moves toward the inclusion of a more diverse range of assets, expansion is likely to be phased. Experience from the current scheme demonstrates that firms increase their understanding of dormancy over time. As their understanding grows, so too does their capability to identify and transfer additional assets. This is likely to be the case with more complex assets in any expanded scheme. In addition, the pace of implementation may vary across different sectors.
- the Government is minded to consider legislative changes to the scope of the Act. The Government will look at the legislative changes required to enable the scheme to be accessible to a broader range of asset classes. In doing so, the Government will not consider changing the requirement for customers to be eligible for full restitution.[40]

A lot of public reaction to the announcement was focussed on the fact that, specifically, "The Government believes there is substantial potential for dormant insurance and pension products to be included in the scheme".[41]

40 Department for Sport and Civil Society, *Response to Dormant Account Commission's Report*, February 2018
41 Department for Sport and Civil Society, Response to Dormant Account Commission's Report; February 2018

5. Constituency advice

For constituents wishing to trace money, the first port of call for someone looking for a lost account is http://www.mylostaccount.org.uk This service is a joint bank, building society and national savings venture which enables people to trace old accounts.

The Pensions Advisory Service can provide help and advice if a constituent believes that they may be entitled to a pension from an ex employer. Contact should be made through the Pensions Advisory Service on 0845 601 2923.

For a more general search for lost financial assets, the Unclaimed Assets Register provides a central resource for people trying to trace dormant accounts, pensions, shares or life policies, or those of a deceased spouse. The Register can be contacted at 0870 241 1713 for details.[42] It charges £18 for a general search, or £35 to trace an occupational pension. 10% of the fee is given to charity.

Some constituents may be worried about losing their money if it is transferred to Reclaim Ltd. The guarantee given to account holders in one of the Treasury consultation documents mentioned above is that ten core 'pledges' underpin each of the schemes.

> 1. In advance of making an account dormant, following an extended period of inactivity, the bank or building society will write to the last known address seeking to re-establish contact, unless mail has already been returned from that address.
>
> 2. Where the customer responds, the account will be kept open.
>
> 3. If no response is received, the account will become dormant to protect against fraud and to protect privacy.
>
> 4 Records of all accounts made dormant will be maintained in perpetuity.
>
> 5. The funds from the dormant accounts remain in the beneficial ownership of the customer and continue to attract interest on the same basis as the preceding live account.
>
> 6 Claim forms will be made available through branch networks, central institutional points and through the BBA and BSA.
>
> 7. Claims made direct to individual institutions or via the BBA and BSA will be processed as quickly as possible and, in any event, within 3 months.
>
> 8. In the event of a valid claim the customer will be advised of: the balance of the account; the amount of interest that has accrued if the account is interest-bearing; and how the customer can access the funds.
>
> 9.. Where claims are made via the BBA and BSA, the claim will be acknowledged and the customer will be informed if they have a valid claim.
>
> 10. There is a right of appeal through internal bank processes and, if necessary, by recourse to the Financial Ombudsman Service.[43]

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42 It too has a website: http://www.uar.co.uk/cost.htm

43 *A UK Unclaimed Asset Scheme: a consultation*, HM Treasury March 2007, p 8

6. Legislation abroad

Although similar legislation exists in other countries 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**, 20 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 30 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.

In **France**, legislation exists with respect to assets in banks and investment funds. Those assets untouched or ignored assets held in banks for 10 year 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'.

Once transferred to the 'deposit account', unclaimed assets held in the 'deposit account' totalled 747 million Euros 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 1 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 5 years after that (i.e. a total of 6 years) (unless the money is claimed by the rightful owner in that period).

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", "conti dormienti". The law includes a range of bank accounts and qualifying life policies (those in excess of 100 euro). ‘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.

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 twenty 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.

Neither **Sweden** nor **Germany** have legislation in this area.

Information about legislation in Australia, New Zealand and States in the United States can be found in a report written for the Department of Work and Pensions: *Financial Assistance Scheme: Review of Assets.*[44]

[44] DWP; *Financial Assistance Scheme: Review of Assets*, December 2007.

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