

DORMANT ASSETS BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Dormant Assets Bill [HL] as brought from the House of Lords on 24 November 2021(Bill 203).

- These Explanatory Notes have been prepared by the Department for Digital, Culture, Media and Sport in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This Dormant Assets Bill ("the Bill") takes forward the Government's commitment to expand the Dormant Assets Scheme. The Dormant Bank and Building Society Accounts Act 2008 ("the 2008 Act") limits the scope of the Scheme to dormant bank and building society accounts, and provides no opportunity to expand it without primary legislation.
- 2 The Bill enables an authorised reclaim fund, which administers the Scheme, to accept a wider range of dormant assets, including certain assets in the insurance and pensions, investment and wealth management, and securities sectors. A dormant asset is a financial product, such as a bank account, that the customer has not used for many years, and which the provider has been unable to reunite them with, despite efforts based on industry best practice. The Bill also introduces a power for the Secretary of State or the Treasury to expand the Scheme to broaden the pool of eligible dormant assets in the future.
- 3 The Bill also amends the approach for distributing dormant assets funding in England, aligning it with the model used for Scotland, Wales, and Northern Ireland. The 2008 Act restricts the English portion of dormant assets funding to youth, financial inclusion, and social investment. The Bill removes these restrictions and introduces a power for the Secretary of State to make an order to determine the social and environmental purposes for which, and the kinds of person to whom, dormant assets money can be distributed in England. The measure includes a statutory requirement to consult before making an order, and no changes to the existing restrictions can be made until or unless a new order is laid.

Policy background

The Dormant Assets Scheme

- 4 The Dormant Assets Scheme is led by industry and backed by the Government with the aim of reuniting people with their assets. Where this is not possible, the Scheme enables this money to support social and environmental purposes across the United Kingdom. In the first ten years of its operation, the Scheme has released over £800 million, including £150 million for coronavirus recovery in 2020.
- 5 The Scheme is underpinned by the following principles:
 - a. reunification first: participants' first priority is to reunite owners with their assets;
 - b. full restitution: dormant assets owners are able, at any point, to reclaim the amount that would have been due to them had a transfer into the Scheme not occurred; and
 - c. voluntary participation: industry participation in the Scheme is voluntary.
- 6 The 2008 Act enables participating banks and building societies to voluntarily transfer funds from dormant accounts which cannot be reunited with their owners to an authorised reclaim fund. A transfer and agency agreement (TAA) is held between Reclaim Fund Ltd (RFL) and the bank or building society, and establishes a contractual framework between the two parties. The TAA outlines the operational arrangements for transfers and reclaims, and includes further details of participants' obligations to undertake reunification efforts prior to transferring eligible assets into the Scheme.
- 7 RFL manages the funds, retaining enough to meet any future reclaims, and distributing the surplus to The National Lottery Community Fund (TNLCF). TNLCF in turn makes these funds available for social and environmental purposes across the United Kingdom, in

accordance with the provisions of the 2008 Act and any directions given in each of the four nations. Dormant assets funding is used to fund projects, or aspects of projects, for which funds would be unlikely to be made available by a Government department of a devolved administration. This is known as the principle of additionality.

- 8 The 2008 Act also provides for an alternative scheme, available to small banks and building societies. This enables firms with balance sheets below £7 billion to transfer dormant assets funds to RFL and nominate a local or aligned charity to receive the surplus. The alternative scheme is maintained but not expanded in the Bill. To date, the alternative scheme has two participants.

Scheme expansion

- 9 Since 2016, industry has been working with the Government to consider how best to expand the Scheme. In 2017, the Commission on Dormant Assets reported on the potential to include a wider range of asset classes.¹ In 2018, the Government confirmed its support for Scheme expansion and asked industry to explore how this would work in practice.
- 10 Four senior Industry Champions took this forward, publishing their report in April 2019.² This made recommendations to industry, the Government, and regulators on broadening the Scheme to include assets from the insurance and pensions, investment and wealth management, and securities sectors.
- 11 Building on this, the Government launched a public consultation in February 2020 to gather views on the proposed approach to expansion.³ The Government's response to the consultation was published in January 2021 and committed to introducing legislation to enable Scheme expansion. Responses to the consultation have informed the development of this legislation.
- 12 The expanded Scheme will function in a similar manner to the Scheme to date, with a participant being required to sign a TAA with RFL before transferring money to it. Such an agreement gives RFL the flexibility to tailor certain provisions to the assets in question, ensuring that the relevant consumer protection efforts - including tracing, verification, and reunification - are made.
- 13 For funds that cannot be reunited with owners, despite these efforts, Scheme expansion has the potential to unlock an estimated £880 million for social and environmental purposes across the United Kingdom.⁴

¹ Commission on dormant assets report. March 2017. Available via:
<https://www.gov.uk/government/publications/dormant-assets-commission-final-report-to-government>

² The Dormant Assets Scheme: a blueprint for expansion. April 2019. Available via:
www.gov.uk/government/publications/the-dormant-assets-Scheme-a-blueprint-for-expansion

³ Consultation on expanding the Dormant Assets Scheme. February 2020. Available via:
<https://www.gov.uk/government/consultations/consultation-on-expanding-the-dormant-assets-scheme>

⁴ Government response to the consultation on expanding the Dormant Assets Scheme. January 2021. Available via:
<https://www.gov.uk/government/publications/government-response-to-the-consultation-on-expanding-the-dormant-assets-scheme>

Classification of Reclaim Fund Ltd (RFL) as a public body

- 14 As specified in the 2008 Act, a reclaim fund is responsible for receiving dormant assets funds from participants, managing the reserves to meet customer reclaims, and making surplus funds available to TNLCF to be spent on social or environmental purposes.
- 15 RFL was established in 2010 by the Co-operative Banking Group (renamed Angel Square Investments Ltd) and remains the only authorised reclaim fund in the United Kingdom. Following a decision by the Office for National Statistics to classify RFL to the central Government subsector, RFL has been established as a Non-Departmental Public Body (NDPB) of the Treasury, operating at arm's length from the Government. RFL continues to manage the Scheme in an open and transparent way, governed by a separate board of directors.
- 16 RFL's funds remain separate from central Government funds, and the Treasury does not have access to dormant assets money. Surplus funds continue to be transferred to TNLCF for distribution in accordance with legislation.
- 17 The Bill reflects RFL's recent establishment as a NDPB of the Treasury and names it as the Scheme's only authorised reclaim fund. It also includes a power for the Treasury to designate additional authorised reclaim funds in the future.

Changing the model for distributing dormant assets funding in England

- 18 The 2008 Act provides that all dormant assets money must be used to fund initiatives which have a social or environmental purpose.⁵
- 19 Funds are apportioned by TNLCF to each nation in the United Kingdom according to the Distribution of Dormant Account Money (Apportionment) Order 2011 (SI 2011/1799), based on the Barnett formula. Within the parameters of social and environmental purposes, relevant ministers in each nation issue broad directions to TNLCF on how to allocate their portion of the funding.
- 20 In England, funding allocations are further restricted by the 2008 Act to youth, financial inclusion, and social investment. The other three nations do not have these restrictions in primary legislation; instead, the relevant ministers have the power to set the particular purposes and recipients of their allocations through secondary legislation.
- 21 The 2008 Act allows the Secretary of State to issue policy directions to TNLCF specifying the purposes for which the money may be distributed. To date, TNLCF has channelled funding in England through four specialist dormant assets-funded organisations, overseen by an independent Oversight Trust.⁶
- 22 Following policy directions from the Secretary of State, TNLCF has created funding agreements with each organisation in order to distribute funds, which are then drawn down by the organisations on the basis of need. There is no set time limit to these funds, which

⁵ Under the alternative scheme, money can also be distributed to local charities.

⁶ These are: Big Society Capital, Access – The Foundation for Social Investment, Fair4All Finance and The Youth Futures Foundation.

enables these independent organisations to take a long-term view of the challenges they exist to tackle.

- 23 There have been multiple calls for change from the public, including several responses to the consultation on expanding the Dormant Assets Scheme (even though this was outside of its scope). The Government's response to the consultation committed to considering whether this was an area that should be reviewed.
- 24 The Government recognises the public interest in how this funding is spent in England, and has concluded that some increased flexibility in determining this would be beneficial. The Bill therefore amends the approach to restrictions in England in the 2008 Act to allow the Government to respond to public feedback and evolving social and environmental needs in England over time by setting the causes through secondary legislation, which is subject to public consultation and parliamentary approval.
- 25 The Government will seek to overturn in the House of Commons an amendment to clause 29 specifying that community wealth funds could be named in any secondary legislation under the clause and providing that the Secretary of State may by order create a pilot scheme for them.
- 26 No further changes, other than consequential amendments, are being made to Part 2 of the 2008 Act.

Legal background

- 27 The current legal framework for the Dormant Assets Scheme is set out in the 2008 Act.
- 28 Part 1 of the Act deals with the transfer of balances in dormant accounts. This includes provisions about the general Scheme (section 1), provisions about the alternative scheme for smaller banks and building societies (sections 2 and 3), and provisions about the functions of a reclaim fund (section 5). Under each scheme, the customer retains against the reclaim fund whatever right to payment of the balance the customer would have had against the bank or building society had the transfer(s) not happened. Under the 2008 Act, the reclaim fund must meet reclaims and manage dormant account funds in a way that enables it to meet whatever reclaims it is prudent for it to anticipate.
- 29 Under the general Scheme, a bank or building society may make a transfer to an authorised reclaim fund from a dormant account, provided the reclaim fund consents to the transfer. After the transfer, the customer no longer has any right of reclaim against the bank or building society, rather this liability is transferred to the reclaim fund.
- 30 In addition to the general Scheme, there is an alternative scheme for smaller banks and building societies. Under this scheme, a smaller bank or building society can itself transfer money from a dormant account to certain charities (for example, a charity with which it has a special connection). The reclaim fund and the charity must consent to the transfer, and a proportion of the money from the dormant account must be transferred to the reclaim fund. In determining what this proportion must be, the reclaim fund must take account of the need to have access at any point to enough money to enable it to meet whatever reclaims it is prudent to anticipate (section 2(4)). After the transfer, the customer no longer has any right of reclaim against the bank or building society, but instead can claim from the reclaim fund whatever they would have been owed had the transfer not happened.
- 31 Section 1 and section 2 of the 2008 Act provide for transfers to be made to an "authorised" reclaim fund. Section 6 defines "authorised" as meaning authorised for the purposes of the Financial Services and Markets Act 2000 (FSMA). Section 31 of FSMA makes provision for

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"authorised persons", including a person who has a Part 4A FSMA permission to carry out one or more regulated activities (as set out in section 22(1) and Schedule 2 of FSMA). The 2008 Act made various amendments to FSMA. This included adding the activities of a reclaim fund to the list of activities in Schedule 2 to FSMA (Schedule 2 provides a non-exhaustive list of activities which may be specified under section 22 of FSMA as regulated activities). Article 63N of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) specifies activities of reclaim funds that are regulated activities for the purposes of FSMA.

- 32 Section 5 of and Schedule 1 to the 2008 Act set out requirements about provision to be made in the articles of association of a reclaim fund. For example, the objects of a reclaim fund must be restricted by its articles of association to those matters in section 5(1) e.g. the meeting of reclaims.
- 33 Part 2 of the 2008 Act makes provision about the distribution of money under the general Scheme. Under the general Scheme, dormant account money is distributed by the Big Lottery Fund (now operating as TNLCF). Schedule 3 to the Act makes further provision about the functions of TNLCF in relation to dormant account money.
- 34 Section 16 makes provision about the distribution of dormant account money by TNLCF, in particular that it must distribute dormant account money for meeting expenditure that has a social or environmental purpose. Section 17 makes provision about the apportionment of dormant account money between the different nations in the United Kingdom. An order prescribing the percentages for the purpose of section 17(1) was made in 2011 (SI 2011/1799). Section 18 provides further restrictions as to the purposes for which, or people to which, dormant account money can be distributed for meeting English expenditure. Sections 19-21 provide a power for the respective devolved administrations to set out such restrictions for the relevant nation's expenditure by way of order. The Welsh ministers have made an order (SI 2010/1317), as have the Scottish ministers (SSI 2010/278).
- 35 There is also a power to give directions to TNLCF under section 22. This requires TNLCF to comply with any directions given to it by the Secretary of State (in relation to English expenditure) or by the devolved administrations (in relation to their nation's portion of the expenditure). A direction under section 22 may specify, for example, matters to be taken into account in determining the persons to whom TNLCF distributes money, or the purposes for which TNLCF may or may not distribute money. In addition, the Secretary of State (but not the devolved administrations) may give directions under subsection (4) relating to operational matters such as financial management, staffing and accounts. TNLCF must be consulted before any direction is given under section 22.

Territorial extent and application

- 36 Clause 34 sets out the territorial extent of the Bill; that is the legal jurisdiction of which the provisions of the Bill are intended to form part of the law. The extent of a Bill can be different from its application. Application is about where a Bill produces a practical effect. In this Bill, the extent is to the whole of the United Kingdom. The application of the Bill is to the whole of the United Kingdom except clause 29 which applies to England only.
- 37 The matters to which the provisions of the Bill relate are not within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly, and no legislative consent motion is being sought in relation to any provision of the Bill.
- 38 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions.

Commentary on provisions of Bill

Part 1: The Dormant Assets Scheme

Clause 1: The Dormant Assets Scheme: Overview

- 39 This clause provides an overview of the operation of the Scheme, which enables eligible participants to transfer money from dormant or unwanted assets to an authorised reclaim fund. Having determined how much it must retain in order to meet any future reclaims, the clause allows an authorised reclaim fund to distribute the surplus to TNLCF in accordance with Part 2 of the 2008 Act.
- 40 Subsection (3) sets out the main features of the Dormant Assets Scheme which mirror those specified in the 2008 Act. It ensures that once a participant transfers an asset to the reclaim fund, any liability pertaining to the transfer, including any liability to meet owner reclaims, is extinguished and makes provisions for an authorised reclaim fund to take on the liability to meet such reclaims.
- 41 Beneficial owners can always reclaim the full amount owed to them. Participants transfer the dormant money to the reclaim fund. Participants will act as agents of the reclaim fund - for example, maintaining owner engagement, records and personal data on its behalf; and managing and verifying reclaims before recouping the amount from the reclaim fund. Owners therefore engage with participants - rather than the reclaim fund - in order to make a reclaim.
- 42 Subsection (5) provides that the reclaim fund retains sufficient funds to meet future reclaims and that surplus money can be distributed via TNLCF for social and environmental purposes.
- 43 Subsection (6) lists the dormant assets which fall in scope of the Scheme:
- a. Bank and building society accounts, which includes suspense accounts, specified in section 1 of the 2008 Act;
 - b. Long-term insurance assets as specified in clauses 2 to 4 in the Bill;
 - c. Pension assets as specified in clauses 5 to 7 in the Bill;
 - d. Investment assets as specified in clauses 8 to 11 in the Bill;
 - e. Client money assets as specified in clauses 12 and 13; and
 - f. Securities assets as specified in clauses 14 to 16 in the Bill.
- 44 Subsection (7) states that this Bill supersedes the general Scheme under the 2008 Act, but does not affect its continued operation.
- 45 Subsection (8) disapplies the following from the Scheme:
- a. a transfer of an agreed proportion of a balance from the alternative scheme for smaller institutions under section 2 of the 2008 Act; and
 - b. unwanted assets i.e. where owners have chosen to give away all or part of their asset to an authorised reclaim fund.
- 46 Subsection (9) clarifies that activities may be carried out directly by an institution or by another person acting on its behalf.
- 47 Subsection (10) ensures that the provisions of Part 1 relating to transfers of dormant assets to an authorised reclaim fund cover not only cases where an amount is payable immediately (i.e. as a debt) but also cases where the person entitled to an amount needs to request

payment, or that person's entitlement needs to be verified, before the amount becomes payable immediately.

Clauses 2-4: Long-term insurance assets

48 These clauses define the insurance assets and participants in scope of the Scheme. They also set out an owner's right to reclaim and the definitions of dormancy for insurance assets.

Clause 2: Transfer of eligible insurance proceeds to reclaim fund

49 This clause provides that an insurance institution can transfer dormant insurance proceeds to an authorised reclaim fund, if the latter consents to it. Upon the transfer, the owner no longer has the right to payment of the proceeds against any insurance institution, but rather has that right against the reclaim fund.

50 If that person has died, whoever the right to payment from the insurance institution would have passed onto has the right to payment from the reclaim fund.

51 This clause also defines the type of insurance institutions that are and are not eligible to participate in the Scheme in relation to insurance proceeds.

Clause 3: "Eligible insurance proceeds"

52 This clause provides that dormant proceeds of a long-term insurance contract are in scope of the Scheme provided that it is not a with-profits policy, an industrial branch policy, or a policy that is the subject of a trust. Insurance proceeds held in a Lifetime ISA are excluded when their transfer to the reclaim fund would result in liability to pay a withdrawal charge to HMRC.

53 This clause provides that:

- a. a non-cash asset must be converted to cash in line with its relevant terms and conditions before it is eligible for transfer into the Scheme. For long-term insurance contracts, this could be, for example, when it reaches its contractual end date or when the owner is deceased; and
- b. the amount that can be reclaimed is adjusted as appropriate (e.g. for any relevant interest or fees) so that the owner has the same right to repayment from the reclaim fund as they would have had against the participant if the transfer had not taken place.

Clause 4: Meaning of "dormant" in relation to eligible insurance proceeds

54 This clause provides that an insurance asset can be classed as dormant if any of the four conditions set out in subsections (2)-(5) are met.

55 Subsection (2) sets out the first condition: that an insurance asset can be classed as dormant if the person whose life is insured is deceased and the participant is satisfied that there is no owner. This captures circumstances where the participant knows that the deceased person has no beneficiaries.

56 Subsection (3) sets out the second condition; namely, that an insurance asset can be classed as dormant if:

- a. at least seven years have passed since the participant was notified that the person whose life was insured is deceased; and
- b. there has been no communication from the owner, anyone acting on their behalf, or anyone administering the deceased person's estate since that time.

- 57 Subsection (4) sets out the third condition; namely, that an insurance asset can be classed as dormant if:
- a. records indicate that the person whose life was insured would be at least 120 years old (i.e. that the participant can reasonably assume they are deceased); and
 - b. there has been no communication from the owner, anyone acting on their behalf, or anyone administering the deceased person's estate during the preceding seven years.
- 58 Subsection (5) sets out the fourth condition; namely, that an insurance asset can be classed as dormant if:
- a. at least seven years have passed since the end of the contractual term; and
 - b. there has been no communication from the owner or anyone acting on their behalf since that time.
- 59 Subsection (6) defines a responsible institution as the insurance institution assessing whether the asset meets any of the four conditions set out in subsections (2)-(5).

Clauses 5-7: Pension assets

- 60 These clauses define the pension assets and participants in scope of the Scheme. They also set out an owner's right to reclaim and the definitions of dormancy for pension assets.

Clause 5: Transfer of eligible pension benefits to reclaim fund

- 61 This clause provides that a pension institution can transfer dormant pension benefits to an authorised reclaim fund, if the latter consents to it. Upon the transfer, the owner no longer has the right to payment of the benefits against any pension institution, but rather has that right against the reclaim fund.
- 62 If that person has died, whoever the right to payment from the pension institution would have passed onto has the right to payment from the reclaim fund.
- 63 This clause also defines the type of pension institutions that are and are not eligible to participate in the Scheme in relation to pension benefits.

Clause 6: "Eligible pension benefits"

- 64 This clause provides that the following dormant pension benefits are in scope of the Scheme:
- a. an income withdrawal that has become payable;
 - b. a personal pension with money purchase arrangements that has become payable; and
 - c. a personal pension with money purchase arrangements available to become payable.
- 65 This provision excludes personal pension schemes whose owners were automatically enrolled, and any scheme with sums invested in with-profit funds.
- 66 This clause provides that:
- a. a non-cash asset must be converted to cash in line with its relevant terms and conditions before it is eligible for transfer into the Scheme. Personal pension schemes are only in scope of the Scheme if this conversion happens because the owner is deceased. Where an income withdrawal is purchased as a standalone product (as opposed to becoming owed as part of a personal pension scheme), this conversion could also occur when it reaches its contractual end date; and
 - b. the amount that can be reclaimed will be adjusted as appropriate (e.g. for any relevant

fees) so that the owner has the same right to repayment from the reclaim fund as they would have had against the participant if the transfer had not taken place.

Clause 7: Meaning of "dormant" in relation to eligible pension benefits

- 67 This clause provides that a pension asset can be classed as dormant if any of the four conditions set out in subsections (2)-(5) are met.
- 68 Subsection (2) sets out the first condition: that a pension asset can be classed as dormant if the person in respect of whom the proceeds are owed is deceased and the participant is satisfied that there is no owner. This captures circumstances where the participant knows that the deceased person has no beneficiaries.
- 69 Subsection (3) sets out the second condition; namely, that a pension asset can be classed as dormant if:
- a. at least seven years have passed since the participant was notified that the person in respect of whom the benefits are payable is deceased; and
 - b. there has been no communication from the owner or anyone acting on their behalf since that time.
- 70 Subsection (4) sets out the third condition; namely, that a pension asset can be classed as dormant if:
- a. records indicate that the person in respect of whom the benefits are payable would be at least 120 years old (i.e. that the participant can reasonably assume they are deceased); and
 - b. there has been no communication from the owner, anyone acting on their behalf, or anyone administering the deceased person's estate during the preceding seven years.
- 71 Subsection (5) sets out the fourth condition, which is only applicable to income withdrawals as a standalone product. In addition to the first three conditions, an income withdrawal can also be classed as dormant if:
- a. at least seven years have passed since the end of the contractual term; and
 - b. there has been no communication from the owner or anyone acting on their behalf since that time.
- 72 Subsection (6) defines a responsible institution as the pension institution assessing whether the asset meets any of the four conditions set out in subsections (2)-(5).

Clauses 8-11: Investment assets

- 73 These clauses define the investment assets and participants in scope of the Scheme. They also set out an owner's right to reclaim and the definitions of dormancy for investment assets.

Clause 8: Transfer of eligible amount owing by virtue of a collective scheme investment

- 74 This clause provides that an investment institution can transfer a dormant eligible amount owing by virtue of a collective scheme investment to an authorised reclaim fund, if the latter consents to it. Upon the transfer, the owner no longer has the right to payment of the amount against any investment institution, but rather has that right against the reclaim fund.
- 75 If that person has died, whoever the right to payment from the investment institution would have passed onto has the right to payment from the reclaim fund.

- 76 This clause also defines the type of investment institutions that are and are not eligible to participate in the Scheme in relation to an amount owing by virtue of a collective scheme investment.

Clause 9: "Eligible amount owing by virtue of a collective scheme investment"

- 77 This clause provides that the following dormant amounts owing by virtue of an OEIC; a unit trust; or an authorised contractual scheme are in scope of the Scheme:
- a. share or unit conversion proceeds, converted to cash in line with relevant terms and provisions;
 - b. a redemption proceed;
 - c. a distribution of income; and
 - d. orphan monies.
- 78 Subsection (4) specifies that an amount held in a Lifetime ISA is excluded when its transfer to the reclaim fund would result in liability to pay a withdrawal charge to HMRC.

Clause 10: Meaning of "dormant" in relation to eligible amount owing by virtue of a collective scheme investment

- 79 This clause provides that an investment asset can be classed as dormant if any of the conditions set out in subsections (2), (3) and (5) are met.
- 80 Subsection (2) sets out the first condition, which is applicable to share or unit conversion proceeds. These can be classed as dormant if the owner has been "gone-away" for at least twelve years.
- 81 Subsection (3) sets out the second condition, which is applicable to a redemption proceed, a distribution of income, and orphan monies. These can be classed as dormant if the owner has been "gone-away" for at least six years.
- 82 In subsections (2) and (3), an owner can be defined as "gone-away" if there has been no communication from the owner or anyone acting on their behalf. "Gone-away" is a standard industry term used when an owner cannot be contacted successfully. There are a range of indicators that may be considered when determining if an owner is gone-away, such as whether mail has been returned, an email has bounced back, or a cheque has not been cashed. The precise definition varies and is expected to evolve over time as new technologies emerge. The clause captures this concept broadly to allow for these variations.
- 83 Where the owner's other investment asset(s) held by the participant has already been classed as dormant and transferred to the Scheme, subsection (5) allows any further orphan monies received to be transferred immediately.
- 84 Subsection (7) defines a responsible institution as the investment institution assessing whether the asset meets any of the two conditions set out in subsections (2)-(3).
- 85 While the definitions of dormancy do not require this, participants can choose to wait until all of the assets they hold for an owner are dormant before transferring them into the Scheme.

Clause 11: Meaning of "reclaim amount" in relation to an eligible amount owing by virtue of a collective scheme investment

- 86 This clause defines the right to payment that the owner of a dormant investment asset has against an authorised reclaim fund in order to align with FCA rules.

- 87 Subsection (2) provide that the reclaim amount for conversion proceeds is the value of the share or unit at the time the participant (acting as agent for the reclaim fund, per clause 23(5)(b)) accepts the owner's reclaim, as well as any distributions or allocations that would have been attributable to the share or unit if the conversion had not occurred.
- 88 Subsection (4) specifies that the reclaim amount for redemption proceeds, a distribution of income, and orphan monies as whatever would have been owed had the assets not been transferred to the Scheme.
- 89 Subsection (5) affirms that the amount that can be reclaimed is adjusted as appropriate (e.g. for any relevant interest or fees) so that the owner has the same right to repayment from the reclaim fund as they would have had against the participant if the transfer had not taken place.

Clauses 12-13: Client money assets

- 90 These clauses define the client money assets and participants within scope of the Scheme. They also set out an owner's right to reclaim and the definitions of dormancy for client money assets.

Clause 12: Transfer of eligible client money to reclaim fund

- 91 This clause provides that an investment institution can transfer dormant client money to an authorised reclaim fund, if the latter consents to it. Upon the transfer, the owner no longer has the right to payment of the money against any investment institution, but rather has that right against the reclaim fund.
- 92 If that person has died, whoever the right to payment from the investment institution would have passed onto has the right to payment from the reclaim fund.
- 93 Subsection (5) specifies that client money held in a Lifetime ISA is excluded if its transfer to the reclaim fund would result in liability to pay a withdrawal charge to HMRC.
- 94 This clause also defines the type of investment institutions that are and are not eligible to participate in the Scheme in relation to client money.

Clause 13: Meaning of "dormant" in relation to eligible client money

- 95 This clause provides that client money can be classed as dormant if the responsible institution is satisfied that the owner has been "gone-away" for at least six years.
- 96 An owner can be defined as "gone-away" if there has been no communication from the owner or anyone acting on their behalf. "Gone-away" is a standard industry term used when an owner cannot be contacted successfully. There are a range of indicators that may be considered when determining if an owner is gone-away, such as whether mail has been returned, an email has bounced back, or a cheque has not been cashed. The precise definition varies and is expected to evolve over time as new technologies emerge. The clause captures this concept broadly to allow for these variations.
- 97 Subsection (5) defines a responsible institution as the investment institution assessing whether the asset meets the dormancy condition.

Clauses 14-16: Securities assets

- 98 These clauses define the securities assets and participants in scope of the Scheme. They also set out an owner's right to reclaim and the definitions of dormancy for securities assets.

Clause 14: Transfer of eligible proceeds or distribution to reclaim fund

- 99 This clause provides that a traded public company can transfer dormant proceeds or a

distribution relating to a share to an authorised reclaim fund, if the latter consents to it.

100 Upon the transfer, the owner no longer has the right to payment of the proceeds or distribution against any traded public company (or, where the shareholder and beneficial owner are different individuals, against the shareholder). Instead, the owner has the right to payment of the proceeds or distribution against the reclaim fund.

101 If that person has died, whoever the right to payment would have passed onto has the right to payment from the reclaim fund.

102 This clause defines the type of traded public company that is eligible to participate in the Scheme as a public company that is traded on a UK-regulated market or UK multilateral trading facility.

Clause 15: "Eligible proceeds or distribution"

103 This clause provides that the following dormant proceeds or distribution are in scope of the Scheme:

- a. share conversion proceeds, converted to cash in line with relevant articles, terms, and/or provisions;
- b. a cash distribution from a share; and
- c. proceeds from corporate actions,
- d. provided that the shareholder is a natural person.

104 Subsection (2) specifies that an amount held in a Lifetime ISA is excluded when its transfer to the reclaim fund would result in liability to pay a withdrawal charge to HMRC.

105 Share conversion proceeds in the securities sector are only in scope on the condition that the articles, terms, and/or provisions that govern them enable a gone-away shareholder, should they return, to reclaim the value of the share at the point it was converted to cash. After adjusting as appropriate (e.g. for any relevant interest or fees), this will be the reclaim amount for the purposes of the Scheme.

Clause 16: Meaning of "dormant" in relation to eligible proceeds or distribution

106 This clause provides the definitions of dormancy for securities assets.

107 Subsection (2) provides that share conversion proceeds or a distribution can be classed as dormant if the shareholder has been identified as "gone-away" for at least twelve years.

108 A shareholder can be defined as "gone-away" if there has been no communication from the shareholder or anyone acting on their behalf. "Gone-away" is a standard industry term used when a shareholder cannot be contacted successfully. There are a range of indicators that may be considered when determining if a shareholder is gone-away, such as whether mail has been returned, an email has bounced back, or a cheque has not been cashed. The precise definition varies and is expected to evolve over time as new technologies emerge. The clause captures this concept broadly to allow for these variations.

109 Subsections (4) and (5) provide that corporate action proceeds can be classed as dormant:

- a. at least twelve years after the company was notified of the consideration and the proceeds have remained unclaimed; or
- b. immediately, if the share to which the corporate action proceeds relate has already been transferred to the Scheme.

Clause 17: Transfers: general

- 110 Subsection (1) provides that a transfer into the Scheme is not in itself a breach of trust or fiduciary duties. It also ensures that it does not give rise to any liabilities for any institution, other than the liability on the reclaim fund to meet reclaims. This will not absolve a participant, or anyone acting on its behalf, of any liabilities which are unconnected with the transfer. For example, where a participant acted negligently in managing an asset prior to its transfer, that liability will not be extinguished by virtue of the transfer.
- 111 Subsection (2) confirms that the right to reclaim an amount from the reclaim fund accommodates situations where that right has been passed on after the previous owner has died.
- 112 Subsection (3) provides for a situation where, following a transfer into the Scheme, an institution has been succeeded by another (for example, through a take-over). References to institution in clauses 2, 5, 8, 12 and 14 should be taken to mean the successor in these scenarios.

Clause 18: Interpretation of Part 1

- 113 This clause defines and clarifies terms used in Part 1 that are relevant to more than one section.

Part 2: Other Provisions

Clause 19: Power to extend the dormant assets scheme to cover new dormant assets

- 114 This clause provides a power to the Secretary of State or the Treasury to bring additional asset classes in scope of the Scheme. This might include ones which have already been proposed for inclusion but whose suitability needs further exploration, new ones, or ones where dormancy has not yet been identified as an issue. The power also enables the Secretary of State or the Treasury to amend the current asset classes so that they can cover new types of assets, and make consequential amendments.
- 115 Subsection (1) allows the Secretary of State or the Treasury to amend Part 1 of the Bill or the 2008 Act by regulations for this purpose. Subsections (2) and (3) make further provision about what such regulations must and can include; for example, identifying when dormancy exists and ensuring that the owner has a right to payment against an authorised reclaim fund.
- 116 Under subsection (4), the Secretary of State or the Treasury may make regulations to enable participants to convert a dormant non-cash asset into cash in order for it to be transferred into the Scheme, where the asset's terms do not provide for this. Subsections (5)-(8) make further provision about what such regulations must do, including ensuring the owner has a right to reclaim from the reclaim fund.
- 117 Subsection (9) ensures that all assets currently in scope cannot be excluded or have their associated definitions of dormancy altered using this power. Subsection (10) provides that any regulations made under this power must be approved by both Houses of Parliament.

Clause 20: Return of surplus alternative scheme assets

- 118 Section 2 of the 2008 Act makes provision for the alternative scheme for smaller banks and building societies. The 2008 Act also allows for an authorised reclaim fund to remodel the proportion of funds that it reserves for reclaims - provided that it meets its objects in section 5(1) of the 2008 Act - and, per section 5(1)(c), for any surplus funds to be distributed to TNLCF. This clause introduces a means for the reclaim fund to transfer additional surplus money from the alternative scheme back to the participant to be distributed to local charities.

This clause will be included as new section 2A in the 2008 Act.

119 Subsection (1) of the new section 2A specifies that an authorised reclaim fund may only return surplus money if it is certain that it no longer needs to retain the funds, for example for the purpose of meeting reclaims. The clause then sets out the steps the reclaim fund must take if that condition is met in order to transfer the additional surplus money to the alternative scheme participant.

120 Subsection (6) prescribes that the alternative scheme participant must consent to receiving surplus funds from the reclaim fund. If it does not consent, subsection (7) allows for the reclaim fund to transfer these surplus funds to TNLCF.

121 Subsection (8) requires the alternative scheme participant that has received surplus funds to transfer them to charity. Subsections (9) and (10) define an eligible charity as one which:

- a. is considered to have a special connection with the bank or building society; or
- b. will use the money to benefit communities which are local to the bank or building society's branches.

122 Aside from this new clause, the alternative scheme will remain as it is. It will continue to be available to those banks and building societies that meet the assets-limit condition. Its scope will not be extended to cover new assets or participants.

Clause 21: Unwanted assets

123 The Dormant Assets Scheme requires participants to have attempted to reunite an asset with its owner before it can be classed as dormant and transferred to the Scheme. When these reunification efforts are successful, the owner may decide that they no longer want their asset. This could be, for example, because the asset is of low value, and the owner does not want the administrative effort of reclaiming it (such as $\pounds 5$ in a deposit account, a share worth $\pounds 2$, etc). This clause enables these unwanted assets to be donated to the Scheme.

124 Subsection (2) provides that an owner can opt for all or part of their asset to be donated to the Scheme. This must be an asset otherwise in scope of the Dormant Assets Scheme - i.e. of the type provided for in section 8 of the 2008 Act, or Clauses 3, 6, 9, 12 or 15 in the Bill. The owner must declare that no other person has a right in or over the asset, and an authorised reclaim fund must consent to the transfer. Subsection (2) also provides that unwanted assets cannot be reclaimed from an authorised reclaim fund, given that they have been donated by the owner.

Clauses 22-25: Provisions applicable to more than one scheme

125 These clauses outline core provisions underpinning the practical operation of the Scheme, including contractual arrangements between an authorised reclaim fund and participants, and how information will be shared between participants and an authorised reclaim fund.

Clause 22: Third party rights and interests

126 This clause ensures that third party rights and interests are preserved upon an asset being transferred to an authorised reclaim fund.

127 A participant or an authorised reclaim fund will not always know what, if any, third party rights or interests may exist in relation to an asset. This may be, for example, because they may arise pursuant to a private contract entered into between an owner and a third party. Therefore, if a third party legitimately asserts their rights or interests in respect of a dormant asset after its transfer to the Scheme, that third party will have an equivalent right of reclaim.

Clause 23: Arrangements between reclaim fund and institutions

- 128 This clause provides that an authorised reclaim fund may only accept transfers from an institution if it has made contractual or other arrangements with the institution that the reclaim fund considers to be a satisfactory basis for accepting such transfers. An institution is considered a participant once these arrangements are in place.
- 129 While the 2008 Act does not make reference to the agreements held between the reclaim fund and participants, or the requirement for participants to make reunification efforts, these provisions are based on existing practice.
- 130 Subsections (2) and (3) specify that the arrangements must include provisions requiring the participant to take steps to reunite assets with their owners. The clause does not stipulate the specific tracing, verification, and reunification practices that should be included in the arrangements, allowing for the practices to be tailored and improved over time. Subsection (4) clarifies that these requirements do not apply for unwanted assets.
- 131 Subsection (5) specifies what the arrangements may provide for. This includes participants maintaining customer engagement on the reclaim fund's behalf, including managing owner reclaims.
- 132 In line with current practice, there may be cases where undertaking steps to trace and verify an owner would be disproportionate, or otherwise unnecessary. For example, this could be because a dormant asset is of such low value that it would cost the participant a significant proportion of what it is worth to try to reunite it with its owner. To accommodate these situations and enable participants to determine appropriate de minimis values, subsections (5)(a) and (6) allow for reasonable exemptions to be agreed in the arrangements.

Clause 24: Effect of insolvency etc. of institutions

- 133 This clause sets out the effect of insolvency of a participant on an owner's right to reclaim.
- 134 An authorised reclaim fund will be liable for meeting reclaims for assets transferred by a participant, even if that participant becomes insolvent or winds up. However, a person's right to payment will be limited to the amount they would have received from the participant in its insolvency (i.e. what would have happened had the transfer not occurred). This may result in the owner's entitlement being reduced or even valued at nil.
- 135 Any right to payment arising under section 11 of the 2008 Act (customer's rights preserved on insolvency etc. of a bank or building society) continues to apply to rights acquired before this section comes into force.

Clause 25: Disclosure of information

- 136 This clause provides that common law or other obligations pertaining to confidentiality do not prevent a participant from disclosing information to an authorised reclaim fund for the purposes of meeting reclaims.
- 137 This clause responds to exceptional circumstances where the transfer of confidential information from the participant to the reclaim fund may be necessary, for example where a dispute arises which involves the reclaim fund directly.
- 138 A disclosure of information should not be made under this section if it would breach data protection legislation.

Clauses 26-28: Provisions relating to a reclaim fund

- 139 These clauses make provisions relating to an authorised reclaim fund.
- 140 They name RFL as the authorised reclaim fund for the Scheme and provide the Treasury with the power to name another authorised reclaim fund in the future - either in addition to, or to

replace, RFL.

141 They also remove RFL's activities from the scope of Financial Services Compensation Scheme (FSCS) protection, and provide that the Treasury would provide RFL with a loan in the event of potential insolvency, in recognition of its new status as a NDPB of the Treasury.

Clause 26: Meaning of "authorised reclaim fund"

142 Subsection (1) defines an authorised reclaim fund, with subsection (2) naming RFL as an authorised reclaim fund.

143 Subsection (3) provides the Treasury with the power to add or remove a company named in the Act as an authorised reclaim fund. It also provides the Treasury with the power to specify which assets a reclaim fund is responsible for managing.

Clause 27: Treasury Loans

144 This clause provides that, in the event an authorised reclaim fund is, or looks likely to be, unable to meet its reclaim liabilities, the Treasury would provide RFL with a loan to cover these liabilities. The loan's purpose is to support an authorised reclaim fund until it is able to cover these costs with its own income. At this point, the Government would look to recoup its costs. The contingent liability will remain in place throughout the operation of an authorised reclaim fund. The Treasury will note the liability in its accounts.

Clause 28: Exclusion of repayment claims from Financial Services Compensation Scheme

145 This clause has the effect of removing the FSCS protection for an authorised reclaim fund's activities, which clause 27 replaces with a Treasury loan.

Clause 29: Distribution of dormant assets money for meeting English expenditure

146 This clause amends the approach in the 2008 Act for distributing dormant assets money in England and aligns it with the model used in Scotland, Wales and Northern Ireland. It enables the Secretary of State to make secondary legislation determining the types of social and environmental purposes to which funding can be distributed in England.

147 Subsection (1) inserts a new section 18A into the 2008 Act, which provides the Secretary of State with the power to restrict the particular purposes or people for which dormant assets money (which includes money from unwanted assets) in England can be distributed. This is in line with the powers that the devolved administrations have for their respective nations under sections 19-21 of the 2008 Act.

148 Subsection (1) includes further provision to enable the creation of community wealth funds via an order laid under this section. These funds are able to make grants and other payments to support the provision of social infrastructure to further the wellbeing of communities suffering from high levels of deprivation and low levels of social infrastructure. It also allows the Secretary of State to create such funds, by order, for a temporary period of ten years, after which their efficacy can be reviewed. These are amendments to the Bill that the Government will seek to overturn in the House of Commons.

149 Subsections (2) of this clause and (2) of the new 18A provide that an order may make transitional or saving provisions, for example to honour any outstanding funding commitments made under section 18 of the 2008 Act.

150 The clause includes a statutory requirement for the Secretary of State to consult with the public on the social or environmental purposes of the English portion of funds before making an order. The Secretary of State must then consult with TNLCF on a draft of the order, and the

draft order must be approved by both Houses of Parliament before it can be made.

151 Section 18 of the 2008 Act, which makes restrictions on English distributions in primary legislation, will be repealed on the day that the first order made under section 18A comes into force.

152 The restrictions of youth, financial inclusion, and social investment specified by the 2008 Act will remain in place until or unless new secondary legislation comes into force. From that day, the restrictions on distributions in England will be specified in secondary - rather than primary - legislation.

Clause 30: Periodic review of the dormant assets scheme

153 This clause requires the Secretary of State to carry out periodic reviews of the Dormant Assets Scheme and the alternative scheme under section 2 of the Dormant Bank and Building Society Accounts Act 2008, and lay the results and conclusions in a report before Parliament.

154 Subsections (1) and (2) provide that the review must consider:

- a. the operation of the Scheme and the alternative scheme, including how many institutions have made transfers, how much money has been transferred, and the effectiveness of arrangements with participants to meet repayment claims;
- b. the effectiveness of steps taken to reunite assets with their owners; and
- c. the use of the power to extend the Scheme under section 19 during and after that period.

155 As well as information on the findings of the review, subsection (7) requires the report laid before Parliament to include information about the uses made by an authorised reclaim fund of its financial resources, the uses of dormant assets money in England, and reporting on how the principle of additionality has been met.

156 Subsections (10) and (11) require the first report to be laid no more than three years after the Act is passed, and subsequent reports to be laid every five years thereafter.

Part 3: Final Provisions

Clause 31: Regulations: general

157 This clause makes further provision about the regulation-making powers in the Bill. For example, any power in the Bill to make regulations (other than the power to make commencement regulations) includes the power to make incidental, supplemental, consequential, saving or transitional provisions (including modifying primary legislation).

158 For example, consequential amendments could be made to the unwanted assets clause following regulations to bring new assets into scope of the Scheme, to ensure it covers the same scope.

Clause 32: Repeals in the 2008 Act and other minor or consequential amendments

159 This clause sets out the provisions in the 2008 Act that are repealed by the Bill.

160 Subsection (3) introduces Schedule 1, which makes minor and consequential amendments as a result of the Bill. This includes amendments to FSMA 2000 and to the 2008 Act.

Clause 33: Index of defined terms

161 This clause introduces Schedule 2, which contains an index of terms used in the Bill.

Clause 34: Extent, commencement, construction as one with 2008 Act and citation

162 This clause explains the geographic extent of the Bill, when the provisions come into effect, and how the Bill may be cited.

163 Subsection (1) provides that the Bill will extend to England and Wales, Scotland, and Northern Ireland.

164 Subsection (2) provides that this clause comes into force on the day on which the Act is passed. Subsection (3) enables the Secretary of State to make commencement regulations to bring the other provisions in the Bill into force.

165 Subsections (6) and (7) state that the Bill may be cited alone as the Dormant Assets Act 2021 - or together with the 2008 Act as the Dormant Assets Acts 2008 to 2021.

Schedule 1: Minor and consequential amendments

166 This Schedule includes various amendments to the 2008 Act and other relevant legislation as a consequence of this Bill.

Schedule 2: Index of defined terms

167 This schedule presents a table listing various terms defined or explained in the Bill and the section(s) in which they are set out.

Commencement

- 168 Clause 34 provides for the commencement of the provisions in the Bill.
- 169 Subsection (2) specifies that clause 34 comes into force on the day on which the Bill is passed.
- 170 Subsection (3) provides that the other provisions of the Bill will be brought into force by regulations made by the Secretary of State.
- 171 Subsection (4) provides that different days may be appointed for different purposes. In addition, the regulations may make transitional or saving provisions in connection with the coming into force of any provision in the Bill.

Financial implications of the Bill

- 172 The Bill has financial implications as set out in the following paragraphs.
- 173 RFL is funded entirely by dormant assets money and its investment income.
- 174 As an authorised firm, RFL pays fees to the FCA. Any increase in FCA fees as a result of this expansion would be borne by RFL. RFL is able to defray reasonable costs to cover its expenses, including regulatory costs.
- 175 Clause 27 provides that, in the event RFL is, or looks likely to be, unable to meet its reclaim liabilities, the Treasury will be able to give RFL a loan to cover its liabilities. The loan's purpose is to support an authorised reclaim fund until such a time that it is able to cover these costs with its own income. At this point, the Government would look to recoup its costs.
- 176 Mirroring section 26 of the 2008 Act, TNLCF will be able to use dormant assets funding to cover reasonable costs associated with administering and distributing additional funding from the expanded Scheme.
- 177 Other provisions in the Bill which require public expenditure relate to minor and routine matters such as conducting consultations and reviews.

Parliamentary approval for financial costs or for charges imposed

- 178 A money resolution, which is required where a bill authorises new charges on the public revenue (i.e. broadly speaking, new public expenditure), is required for the Bill.
- 179 RFL is required to retain a reserve to meet reclaims. However, in the event that RFL is unable to meet its liabilities, the Treasury can provide RFL with a loan (see clause 27).
- 180 The Treasury would arrange for the loan to be paid out of money provided by Parliament. A departmental minute establishing the contingent liability will be laid before Parliament before the liability comes into effect.
- 181 As a NDPB of the Treasury, the Treasury on behalf of RFL will be accountable to Parliament each year for its annual expenditure.

Compatibility with the European Convention on Human Rights

182 In accordance with section 19 of the Human Rights Act 1998, the Minister in charge of the Bill has made the following statement: "In my view, the provisions of the Dormant Assets Bill are compatible with the Convention rights."

183 The Bill engages Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to the peaceful enjoyment of possessions) ("Article 1") of the European Convention of Human Rights ("ECHR"). The Bill is compatible with these rights for the reasons summarised below.

Article 8

184 The transfer of confidential information to the reclaim fund under clause 25 amounts to an interference with Article 8 rights. The clause is necessary to enable a reclaim fund to verify claims for payment by customers whose balances have been transferred, to protect against fraudulent claims and to enable it to deal with transfers so that it can assess the risk of a repayment claim and ensure retention of sufficient amounts for reserving purposes (as required by section 5(1)(b) of the 2008 Act).

185 Any interference is justified by the legitimate public interest aims of releasing dormant assets for the wider benefit of social and environmental purpose.

186 Any interference is proportionate as transfer of confidential information is only permitted to the extent it is required in order for the reclaim fund to fulfil its function of managing dormant asset funds and meeting claims for repayment, and transfer of information will only occur in exceptional circumstances (e.g. where a dispute arises which involves the reclaim fund directly). Further, the clause states explicitly it is not intended to override data protection legislation (which will include the requirement that the participant and reclaim fund identify the lawful basis on which they could process any personal data). Information shared with respect to transfers will not include sharing personal data.

Article 1 of the First Protocol

187 Clause 1(3) affects an asset owner's contractual rights which constitute property protected by Article 1. It may also affect the contractual rights of a third party with an interest in the asset. Interference is compatible with Article 1 primarily because of the underlying principle of full restitution; unless asset owners have explicitly consented to the transfer, they retain the right, at any time, to repayment from the reclaim fund of the amount that would have been due to them had the transfer not occurred (which includes adjustment for interest).

188 Any interference with an asset owner's, or third party's Article 1 rights is justified by the legitimate public interest aims of releasing dormant assets for the wider benefit of social and environmental purposes. Scheme expansion has the potential to unlock an estimated $\pounds 880$ million for social and environmental purposes across the United Kingdom.

189 The clause is proportionate because asset owners will be entitled to whatever right to payment they would have had against a participant had the transfer not happened. The Bill extends and reinforces existing safeguards and compensation mechanisms in place in the 2008 Act to ensure that the rights of asset owners are protected in the following ways.

190 Clause 23 provides that a reclaim fund must refuse to accept a transfer unless the reclaim fund and the participant have made arrangements which the reclaim fund considers are a satisfactory basis for accepting such transfers. It also provides that these arrangements must

include tracing and verification steps to be taken by the participant, with a view to reuniting a dormant asset with its owner, before transferring that asset to the reclaim fund. Arrangements relating to the transfer of unwanted assets do not need to require that these steps are taken prior to a transfer; this is because unwanted assets are assets where the person who has the right to the asset has confirmed that asset can be transferred to the reclaim fund (clause 21(1)).

- 191 Where a participant acts negligently in managing an owner's asset prior to its transfer or fails to maintain owner engagement following a transfer, that liability will not be extinguished. Only liabilities pertaining to the transfer are extinguished. Further, clauses 27 and 28 replace FSCS protection with the ability of the Treasury to provide a short-term loan to prevent a reclaim fund from going insolvent. Clause 22 ensures third party proprietary interests are preserved upon an asset transferring to the reclaim fund. Unless regulations are made under clause 19, in accordance with the draft affirmative resolution procedure, only assets which have automatically crystallised to cash by operation of a contractual, legal or regulatory event, are eligible for transfer to a reclaim fund. If regulations are made permitting the conversion of a non-cash asset to cash for the purposes of the proceeds of that asset being transferred into the Scheme, these will be accompanied by a specific Ministerial statement stating whether in his or her view the regulations are compatible with Convention rights.

Related documents

192 The following documents are relevant to the Bill and can be read at the stated locations:

- The following documents are relevant to the Bill and can be read at the stated locations:
- Government response to the consultation on expanding the Dormant Assets Scheme (Jan 2021) - <https://www.gov.uk/government/publications/the-dormant-accounts-scheme/government-response-to-the-consultation-on-expanding-the-dormant-assets-scheme>
- Consultation on expanding the Dormant Assets Scheme (Feb 2020) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942209/Consultation_on_expanding_the_dormant_assets_scheme.pdf
- The Dormant Assets Scheme: A Blueprint For Expansion (April 2019) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942210/Industry_Champions_Report_on_Dormant_Assets_2019_full_report_2.pdf
- Government Response to the Commission on Dormant Assets' Report (Feb 2018)- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/681983/Government_Response_to_Commission_on_Dormant_Assets_16_February_2018.pdf
- Dormant Assets Commission: final report to Government (March 2017) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727189/Tackling_dormant_assets_-_recommendations_to_benefit_investors_and_society_1.pdf
- Dormant Bank and Building Society Accounts Act (2008) - <https://www.legislation.gov.uk/ukpga/2008/31/contents>

Annex A - Territorial extent and application in the United Kingdom

The Bill extends and applies to England and Wales, Scotland, and Northern Ireland with the exception of Clause 29 which extends to the United Kingdom but applies to England only. Financial Services and Financial Markets is a reserved matter and no Legislative Consent Motions are required for this Bill.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Part 1 The Dormant Assets Scheme Clause 1 – 18	Yes	Yes	No	Yes	No	Yes	No
Part 2 Other Provisions Clause 19 – 28	Yes	Yes	No	Yes	No	Yes	No
Part 2 Other Provisions Clause 29	Yes	No	No	No	No	No	No
Part 2 Other Provisions Clause 30	Yes	Yes	No	Yes	No	Yes	No
Part 3 Final Provisions Clause 31 - 34	Yes	Yes	No	Yes	No	Yes	No

Subject matter and legislative competence of devolved legislatures

Clause 29 extends to the United Kingdom but applies in England only.

DORMANT ASSETS BILL [HL]

EXPLANATORY NOTES

These Explanatory Notes relate to the Dormant Assets Bill [HL] as brought from the House of Lords on 24 November 2021 (Bill 203).

Ordered by the House of Commons to be printed, 24 November 2021

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