



Dormant Assets Act 2022

2022 CHAPTER 5

PART 1

THE DORMANT ASSETS SCHEME

Investment assets

- 8 Transfer of eligible amount owing by virtue of a collective scheme investment to reclaim fund**
- (1) This section applies where—
- (a) an investment institution transfers to an authorised reclaim fund a dormant eligible amount owing by virtue of a collective scheme investment, and
 - (b) the reclaim fund consents to the transfer.
- (2) On the transfer of the amount—
- (a) a person to whom the amount is payable immediately before the transfer ceases to have any right against any investment institution to payment of the amount, but
 - (b) that person acquires against the reclaim fund a right to payment of the reclaim amount (see section 11).
- (3) In this Act “investment institution”, in relation to an amount owing by virtue of a collective scheme investment, means a person who—
- (a) under Part 4A of FSMA 2000 has permission to carry out activities of a kind mentioned in subsection (4),
 - (b) owes the amount in the course of, or in connection with, carrying on activities covered by that permission, and
 - (c) has its head office or an establishment in the United Kingdom,
- other than a person who is specified, or is within a class of persons specified, by an order under section 38 of FSMA 2000 (exemption orders).

Status: This is the original version (as it was originally enacted).

- (4) The activities referred to in subsection (3)(a) are activities which are regulated activities for the purposes of FSMA 2000 by virtue of any of the following provisions of the RAO 2001—
- (a) article 51ZA (managing a UK UCITS);
 - (b) article 51ZB (acting as trustee or depositary of a UK UCITS);
 - (c) article 51ZC (managing an AIF);
 - (d) article 51ZD (acting as trustee or depositary of an AIF).

9 “Eligible amount owing by virtue of a collective scheme investment”

- (1) This section gives the meaning in this Act of “eligible amount owing by virtue of a collective scheme investment”.
- (2) In this Act “collective scheme investment” means—
- (a) a share in an authorised open-ended investment company (“OEIC”),
 - (b) a unit in an authorised unit trust scheme, or
 - (c) a unit in an authorised contractual scheme.
- (3) An eligible amount owing by virtue of a collective scheme investment is (subject to subsection (4)) the amount owing to a person by virtue of—
- (a) a collective scheme investment being converted into a right to payment of an amount by an investment institution,
 - (b) a redemption of a collective scheme investment by the share or unit holder,
 - (c) a distribution of income attributable to a collective scheme investment, or
 - (d) an investment institution holding orphan monies attributable to the winding-up of, or the termination of a sub-fund of, the collective scheme containing a collective scheme investment,
- after the appropriate adjustments have been made for such things as interest due and fees and charges payable.
- (4) An amount held in a Lifetime ISA is excluded from subsection (3) if its transfer to an authorised reclaim fund would result in liability to pay a withdrawal charge to HMRC.
- (5) For the purposes of subsection (3)(a) the reference to conversion of a collective scheme investment into a right to payment is to conversion in accordance with—
- (a) provision in the OEIC’s instrument of incorporation, the unit trust scheme’s trust deed or the authorised contractual scheme deed (as the case may be),
 - (b) any contractual terms applicable in relation to the investment, or
 - (c) any other applicable provision (such as FCA rules) authorising or requiring conversion of the investment.
- (6) For the purposes of subsection (3)(d) the reference to orphan monies attributable to the winding up, or the termination of a sub-fund, of a collective scheme investment is to—
- (a) in the case of an OEIC, or an umbrella company sub-fund, that has been wound up otherwise than by the court, money (including unclaimed distributions) standing to the account of the company on the date of dissolution or termination (as the case may be) which would otherwise have to be—
 - (i) paid into court, or
 - (ii) (in Scotland) lodged in the name of the Accountant of the Court,

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in accordance with regulation 33(4) and (5), or (as the case may be) regulation 33(4) and (5) as applied by regulation 33C, of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228);

- (b) in the case of a unit trust scheme which has been wound up, or an umbrella unit trust scheme sub-fund which has been terminated, money consisting of any unclaimed net proceeds or other cash (including unclaimed distribution payments) which—
 - (i) are held by the trustee after the end of the year beginning with the day on which the unit trust is dissolved or the sub-fund terminated (as the case may be), and
 - (ii) would otherwise have to be paid into court, or (in Scotland) paid as the court may direct, in accordance with FCA rules;
- (c) in the case of an authorised contractual scheme which has been wound up or an umbrella co-ownership scheme sub-fund which has been terminated, money consisting of any unclaimed net proceeds or other cash (including unclaimed distribution payments) which—
 - (i) are held by the depositary after one year from the date on which they became payable, and
 - (ii) would otherwise have to be paid into court or (in Scotland) paid as the court may direct, in accordance with FCA rules.

(7) In this Act—

- (a) “authorised contractual scheme”, “open-ended investment company” and “unit trust” have the same meanings as in Part 17 of FSMA 2000 (see section 237(3) of that Act);
- (b) “umbrella company sub-fund” means a separate part of the property of an umbrella company that is pooled separately;
- (c) “umbrella unit trust scheme sub-fund” means a separate part of the property of an umbrella unit trust that is pooled separately;
- (d) “umbrella unit trust scheme sub-fund” means a separate part of the property of an umbrella unit trust that is pooled separately;

(8) In subsection (7)—

“umbrella company” means an OEIC whose instrument of incorporation provides for pooling in relation to separate parts of the scheme property and whose shareholders are entitled to exchange rights in one part for rights in another;

“umbrella co-ownership scheme” means an authorised contractual scheme whose contractual scheme deed provides for pooling in relation to separate parts of the scheme property and whose unitholders are entitled to exchange rights in one part for rights in another; and

“umbrella unit trust scheme” means an authorised unit trust whose trust deed provides for pooling in relation to separate parts of the unit trust property and whose unitholders are entitled to exchange rights in one part for rights in another;

and in this subsection and subsection (7) references to pooling are to such pooling as is mentioned in section 235(3)(a) of FSMA 2000 (collective investment schemes).

10 Meaning of “dormant” in relation to eligible amount owing by virtue of a collective scheme investment

- (1) For the purposes of this Act an eligible amount owing by virtue of a collective scheme investment is “dormant” at a particular time if either (or both) of the following two conditions is met in relation to the amount at that time.
- (2) The first condition, applicable to share or unit conversion proceeds, is that the responsible institution regards the person to whom the proceeds are payable as having been gone-away throughout the preceding 12 years.
- (3) The second condition, applicable to an amount which is not share or unit conversion proceeds, is that the responsible institution regards the person to whom the amount is payable as having been gone-away throughout the preceding 6 years.
- (4) For the purposes of subsections (2) and (3), a responsible institution may regard a person as having been “gone-away” throughout a period if the responsible institution has received no communication from that person (or a person acting on behalf of that person) during that period.
- (5) Orphan monies attributable to a collective scheme investment may also be treated as dormant if they have become payable to a person after the transfer as mentioned in section 8(1)(a) of an amount which—
 - (a) was an amount attributable to the winding-up, or termination of a sub-fund, of the collective scheme containing the collective scheme investment, and
 - (b) was dormant by virtue of meeting the first or second condition above.
- (6) In this section and section 11—

“orphan monies” means an amount owing by virtue of an institution holding orphan monies as mentioned in section 9(3)(d);

“share or unit conversion proceeds” means an amount owing to a person by virtue of a conversion as mentioned in section 9(3)(a).
- (7) In this section “responsible institution” means the investment institution that is responsible for doing either or both of the following activities—
 - (a) assessing whether a person has been gone-away for a period;
 - (b) receiving communications as mentioned in subsection (4).

11 Meaning of “reclaim amount” in relation to an eligible amount owing by virtue of a collective scheme investment

- (1) This section gives the meaning for the purposes of this Act of “reclaim amount” in relation to a transfer of an amount to an authorised reclaim fund as mentioned in section 8(1)(a).
- (2) If the transfer is of share or unit conversion proceeds, the reclaim amount is the sum of—
 - (a) the price the share or unit would have on the day on which the reclaim fund accepts the claim for the reclaim amount,
 - (b) any distributions of income attributable to the share or unit that would have been paid, and
 - (c) any allocation of income attributable to the share or unit that would have been made,

if the conversion of the share or unit into a right to payment (as mentioned in section 9(3)(a)) had not happened.

- (3) Where there is no price calculated for the share or unit on the day mentioned in subsection (2)(a), the price it would have on that day is to be taken to be the same as the price on the next day for which a price is calculated.
- (4) If the transfer is of an amount which is not share or unit conversion proceeds, the reclaim amount is whatever amount would have been owing if the transfer had not happened.
- (5) The reclaim amounts described in subsections (2) and (4) are to be calculated after making any appropriate adjustments that would have fallen to be made for such things as interest due and fees and charges payable.