

EXECUTIVE NOTE

THE DORMANT BANK AND BUILDING SOCIETY ACCOUNTS (SCOTLAND) ORDER 2010

2010 Draft

1. The above instrument is made in exercise of powers conferred by section 20(1) of the Dormant Bank and Building Society Accounts Act 2008. The instrument is subject to the affirmative resolution procedure.

Background

2. Many people forget about, or lose track of, small deposits of money in bank and building society accounts. Despite the efforts of banks and building societies to reunite these funds with their owners, they build up as dormant accounts assets in the banking system. Several countries have successfully set up schemes in recent years to enable assets in dormant accounts to be reinvested in society.

3. The UK Parliament passed The Dormant Bank and Building Society Accounts Act 2008 to enable banks and building societies to pass this money, on a voluntary basis, to the Big Lottery Fund for distribution for social and environmental purposes. Dormant accounts are defined in the 2008 Act as those which have seen no customer-initiated activity for at least 15 years.

4. Money from dormant accounts will flow into a Reclaim Fund set up by the banks and building societies. The Reclaim Fund will be independent of government and will be authorised and regulated by the Financial Services Authority. The Reclaim Fund will:

- Receive funds from dormant accounts; and
- Assume the associated liability for any claims from customers; and
- Determine what proportion of the funds needs to be held back to meet any future claims from customers and to meet the Fund's own running costs.

5. It is anticipated that the BIG Lottery Fund, as the national distributor, will commence distribution of the monies from the Fund in mid 2011. BIG Lottery (Scotland Committee) ('BIG') will be the distributor in Scotland.

6. The UK Government's current estimate is that the initial sums in existing dormant accounts which will transfer into the Reclaim Fund will be in the order of £300 to £400 million. The UK Government have informed us that it is difficult to be more precise as the actual figure will depend on any subsequent claims emerging from the former account holders.

7. Following the initial transfer, the annual amount being transferred to the Reclaim Fund is estimated to be in the low tens of millions of pounds per annum. The UK Government published a figure of £340 million for dormant bank account funds in the Pre-Budget Report in December 2009. Under Section 17(5) of the Dormant Bank and Building

Society Accounts Act 2008, the UK Government is required to formally consult the Scottish Ministers, Welsh Ministers, the Department of Finance and Personnel in Northern Ireland, the Big Lottery Fund and any other persons the Secretary of State thinks appropriate on the apportionment formula for distributing the funds before making an order under that section. That formal consultation process is still to be undertaken by the UK Government and has been delayed due to the UK General Election and subsequent change in administration. **Based on an assumption that the Barnett Formula is adopted for distribution purposes, we estimate that Scotland's proportionate share of the dormant accounts fund would be around £12 million per annum for the first two years and around £1.5 million year-on-year thereafter.**

Policy Objectives

8. The purpose of the Dormant Bank and Building Society Accounts (Scotland) Order 2010 is to restrict the purposes for which, and the kinds of persons to which, a distribution of dormant account money may be made under the Dormant Bank and Building Society Accounts Act 2008, for meeting Scottish expenditure.

9. Article 3 provides for a distribution of dormant account money to third sector organisations for meeting expenditure on or connected with services, facilities or opportunities which promote strong, resilient and supportive communities. This is a direct link to Outcome 11 of the Scottish Government's 15 National Outcomes – “We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others”.

10. The definition of “strong, resilient and supportive community” used in the draft Order is deliberately wide to ensure that expenditure from the Dormant Bank and Building Society Accounts Fund in Scotland will contribute effectively to the achievement of National Outcome 11. The scope of communities envisaged in the Order will enable both an inclusive approach *and* the identification of specific priorities in BIG's strategic plan.

Next Steps

11. If the Order is passed by the Scottish Parliament, the Scottish Ministers intend to instruct BIG, under Schedule 3 to the Act, to prepare and adopt a strategic plan for Scotland. The strategic plan will be a statement of the BIG's policies for the distribution of dormant account money for meeting Scottish expenditure. The Scottish Ministers will also use powers under section 22 of the Act to set out policy directions to guide BIG in the development of the plan.

12. It is expected that BIG will then hold a consultation on the draft Strategic Plan. Once finalised, the draft Plan has to be agreed with the Scottish Ministers, who also have to lay it before the Scottish Parliament.

Consultation

13. Section 20(2) of the Act requires that the Scottish Ministers consult BIG and such other persons, if any, as they think appropriate.

14. The Scottish Council for Voluntary Organisations ('SCVO') hosted a national scoping seminar on behalf of the Scottish Government on 13 May 2008. Representatives from 38 organisations attended. Following this seminar a finalised list of consultation questions was agreed with SCVO and BIG. A series of 4 local consultation sessions hosted by local councils of voluntary service were held in Paisley, Galashiels, Aberdeen and Fort William in June/July 2008.

15. In addition to these events, the Scottish Government launched a 12 week on-line consultation exercise, utilising the 6 key questions, from 16 June to 8 September 2008 (see <http://www.scotland.gov.uk/Publications/2008/06/ACCOUNTS>), in which 76 responses were received. SCVO ran a parallel consultation exercise on its website over the same period, complementing the Scottish Government process, in which 194 responses were received.

16. A summary and analysis was produced for the Scottish Government's consultation and SCVO produced a summary and analysis from its own consultation exercise. Both reports have been posted on the Scottish Government website at <http://www.scotland.gov.uk/Topics/People/15300/Dormantbankaccounts>.

17. Although it was possible to identify some commonality on the governing principles for the fund, there was no clear consensus about how the Dormant Bank Account Fund should operate in response to the other key questions posed. This is perhaps unsurprising given that the third sector in Scotland is a large and dispersed sector, made up of around 45,000 organisations ranging from multi-million pound national organisations to small volunteer-led organisations.

18. It should be noted, however, that this public consultation exercise was based on the UK Government's estimate at June/July 2008 of the transfer in the initial year to the Fund being between £400-£500m for the UK as a whole and around £40 million for Scotland. More recently, however, the UK Government has revised this estimate downwards and, assuming Barnett formula proportions, Scotland can now expect to receive an initial "windfall" amounting to around £12 million per annum for the first two years and around £1.5 million year-on-year thereafter.

19. Following the completion of the public consultation exercise in 2008, the Minister for Enterprise, Energy and Tourism and third sector officials have consulted and had discussions on the Order and the dormant bank account funding process with political party spokespersons, with representatives of third sector organisations and with BIG.

20. In addition, policy directions were issued to BIG by Scottish Ministers in July 2009 which emphasised the importance of outcome-focused funding and the need to align BIG's objectives with the Scottish Government's five Strategic Objectives.

Financial Effects

21. This Instrument will have no adverse financial impact on the Scottish Government, or on third sector organisations. Under section 26 of the Act, BIG may defray out of dormant account money any expenses incurred by it as a consequence of the Act. In addition, section 26 allows BIG to pay into the Scottish Consolidated Fund, such amounts as the Scottish Ministers determine to be appropriate for defraying expenses incurred or to be incurred by them under the Act.

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