

**EXPLANATORY MEMORANDUM TO
THE BUILDING SOCIETIES (ACCOUNTS AND RELATED PROVISIONS)
(AMENDMENT) REGULATIONS 2009**

2009 No. 1391

1. This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend Schedule 8 (directors' report) to the Building Societies (Accounts and Related Provisions) Regulations 1998 by adding a requirement that where a building society has transferred money to a charity under the Dormant Bank and Building Society Accounts Act 2008, the name of each charity to which a transfer is made and the amount transferred to each charity is included in the directors' report for that year.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The Dormant Bank and Building Society Accounts Act 2008 ("the Act") provides a framework whereby banks and building societies can transfer the balances of dormant bank and building society accounts to a reclaim fund. Once a transfer has been made the customer's right to repayment is exercisable against the reclaim fund.

4.2 The Act also has a framework for an alternative scheme, available to smaller banks or building societies, whereby a proportion of the balance of a dormant account can be transferred to a charity either with a special connection to the bank or building society or to a charity which undertakes to apply the money for the benefit of communities local to branches of the bank or building society. The remainder of the balance is transferred to a reclaim fund. Once a transfer has been made a customer's right to repayment of the whole balance is exercisable against the reclaim fund.

4.3 Section 13 of the Act requires banks which participate in this alternative scheme to include in the directors' report for the relevant year the identity of the charities to which transfers have been made and the amounts transferred. During the passage of the Bill the Treasury stated that similar requirements would be placed on building societies by way of an amendment to the Building Societies (Accounts and Related Provisions) Regulations. These Regulations make this amendment.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Following consultations in March 2007 and May 2007, the Government legislated to establish dormant accounts scheme in the UK allowing banks and building societies to make funds available for distribution to the benefit of the community, while ensuring that the right of account holders to reclaim their money is protected.

7.2 The scheme permits small and locally based institutions to transfer a proportion of dormant accounts balances to either local charities or charities with which they have a special connection, with the remainder of the balance being transferred to the reclaim fund. The Act requires banks making transfers to the reclaim fund under this scheme to identify in their directors' reports each of the charities in receipt of dormant account funds and the amount transferred to each in the financial year covered by the report. This ensures that such banks' transactions under the scheme are fully transparent.

7.3 This statutory instrument places equivalent reporting requirements on building societies to create a level playing field for small and locally based banks and building societies taking advantage of this option and to ensure that the scheme is fully transparent.

7.4 There is public interest in dormant accounts, especially following the launch of an online gateway by the British Bankers' Association ("BBA"), Building Societies Association ("BSA") and National Savings & Investments for customers to trace dormant accounts at www.mylostaccounts.org.uk in January 2008, which has received over a quarter of a million trace requests to date.

7.5 As of November 2008, the BBA and the BSA estimate that there may be between £250 million and £350 million of unclaimed funds in banks, and up to £130 million in building societies. These figures, however, are likely to fall as a result of ongoing industry led initiatives to reunite customers with their accounts.

Consolidation

7.6 There are no plans to consolidate the instrument that is being amended.

8. Consultation outcome

8.1 The Government consulted on proposals for secondary legislation for a UK dormant accounts scheme in the document 'A UK Dormant Accounts Scheme: a

consultation on secondary legislation’, which was published in February 2009. The consultation lasted 12 weeks, in accordance with the Code of Practice for written consultations, and closed on 11 May 2009.

8.2 The consultation invited views on proposals to: extend the scope of FSA authorisation and regulation to include particular activities of reclaim funds; place a requirement on building societies participating in the scheme for smaller institutions, publicly to disclose information in line with the requirements placed on smaller banks by the Act; and extend the notice requirement applicable to banks to cover a proposed business transfer of a reclaim fund.

8.3 All respondents who commented directly on the Government’s proposals were firmly supportive of all measures, including a requirement on building societies participating in the scheme for smaller institutions, publicly to disclose information in line with the requirements placed on smaller banks by the Act.

9. Guidance

9.1 No guidance has been published in relation to the matters contained in these regulations because it is not considered that any is required in this case.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment prepared as part of the Treasury’s reply to the consultation responses to the February 2009 consultation on secondary legislation is available on the Treasury website (www.hm-treasury.gov.uk).

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Treasury will undertake a post-implementation review of the UK dormant accounts scheme and, specifically, of the transfer of balances to the reclaim fund, the repayment of customers and the effectiveness of the banking sector’s reuniting arrangements. The review will also look at the level of participation by financial institutions in the scheme. A report will be published within three years of the date when a reclaim fund is first authorised.

13. Contact

13.1 Harry Lee at HM Treasury (Tel: 020 7270 4754 or email: harry.lee@hm-treasury.gsi.gov.uk) can answer any queries regarding the instrument.