

# Expansion of the Dormant Assets scheme

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CP22/9

13 May 2022

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# How to respond

We are asking for comments on this Consultation Paper (CP) by **Friday 17 June**

You can send them to us using the form on our website at:

<https://www.fca.org.uk/cp22-9-response-form>

Or in writing to:

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Financial Conduct Authority  
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Telephone: **020 7066 1802**

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# 1 Summary

## Why we are consulting

- 1.1 The Dormant Asset Scheme (DAS) allows banks and building societies to pay dormant monies to an authorised reclaim fund which then puts this money towards funding good causes. In 2016, HM Government established the Independent Commission on Dormant Assets to examine what new assets could be brought into an expanded Dormant Asset Scheme. The Commission identified dormant assets in a range of financial services sectors that could be included in an expanded DAS.
- 1.2 In February 2022, the [Dormant Assets Act 2022](#) received Royal Assent. The Act amends the Dormant Bank and Building Society Accounts Act 2008 to expand the scope of dormant assets that can be contributed to the DAS.
- 1.3 We have been working closely with HM Government and Reclaim Fund Limited (RFL) to facilitate the expansion of the scheme. We are now proposing amendments to our rules and guidance to enable insurance, pension and securities firms to contribute dormant assets to an expanded scheme.

## Who this applies to

- 1.4 Reclaim Fund Limited (RFL) and providers of insurance and pensions products should read this consultation. Other stakeholders interested in the treatment of dormant assets, for example consumer organisations, may also want to read the consultation.

## Next steps

- 1.5 We want to know what you think of our proposals. Please use this [online form](#) or email: [cp22-09@fca.org.uk](mailto:cp22-09@fca.org.uk) by Friday 17 June 2022.
- 1.6 Depending on the feedback received to this consultation we hope to finalise our proposals in July 2022. We have agreed with HM Government and RFL for expansion of the dormant asset scheme to happen in a staggered approach. This will mean a second consultation on asset classes not covered in this consultation.

## 2 The wider context

2.1 The Dormant Bank and Building Society Accounts Act 2008 supported the creation of the Dormant Assets Scheme (DAS). Under the DAS, bank accounts are deemed dormant when they have been untouched for a minimum of 15 years and the bank or building society has been unable to trace the owner. Banks and building societies can voluntarily channel funds from dormant accounts to the DAS via an Authorised Reclaim Fund (ARF). The ARF is responsible for meeting any reclaims and the distribution of dormant funds to good causes.

2.2 The DAS is underpinned by three principles

- **Reunification first:** participants' priority is to trace and reunite people with their assets
- **Full restitution:** asset 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
- **Voluntary participation:** potential participants can choose whether to contribute to the scheme and to what extent.

### Reclaim Fund Limited

2.3 There is one ARF in the UK - Reclaim Fund Ltd (RFL) which was established in 2011 by the Cooperative Banking Group (now Angel Square Investments Ltd). Since 2011, over £745m has been made available through the DAS to social and environmental initiatives, including £150m allocated to support coronavirus recovery. After ten years of operation, the current Scheme is reaching a mature state, with significantly fewer funds flowing through the system each year.

### Expansion

2.4 The Dormant Assets Act 2022 expanded the current DAS to facilitate the inclusion of assets from new sectors. The new assets in scope of the expanded scheme fall under five asset classes:

- Insurance
- pensions
- securities
- investment assets
- client money

2.5 The full list of assets in scope, new definitions of dormancy and reclaim values can be found in the Dormant Assets Act 2022.

2.6 With HM Government and RFL, we have agreed a staggered approach to facilitating expansion of the DAS. This is to reflect differences between the different asset classes and their resolution processes. We are consulting now on changes to FCA

rules to facilitate expansion in three asset classes: insurance, pensions and securities. We will continue to work with HM Government, RFL and industry to facilitate expansion for investment assets and client money.

- 2.7 The UK's insurance and pensions sector is the third largest in the world and manages investments worth £1.8tn. In 2017, there were over 58 million life and long-term savings policies in force, generating premium income of £180bn per year and paying out benefits worth £175bn. The government's consultation on expanding the DAS estimated that there could be up to £2.1 billion of dormant insurance and pensions sector products. Based on RFL's existing reserve estimates, approximately £575 million could be released to social and environmental initiatives. The consultation also estimated that there could be up to £158 million of dormant security sector assets and that approximately £66 million could be released.

## Financial Services Compensation Scheme

- 2.8 Under current Prudential Regulation Authority (PRA) Dormant Account Scheme rules, customers would be able to make a claim for compensation from the Financial Services Compensation Scheme if a dormant account fund operator is unable, or likely to be unable, to satisfy a repayment claim.
- 2.9 The PRA is considering the implications of the expansion of the dormant assets scheme on FSCS protection.

## Equality and diversity considerations

- 2.10 We have considered the equality and diversity issues that may arise from the proposals in this Consultation Paper. We do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010 for the reasons set out in our compatibility statement at annex 3.
- 2.11 We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules. We welcome your input on the equality impacts of this consultation.

## 3 Proposed changes to facilitate expansion in the securities, insurance and pensions sectors

- 3.1 This Chapter sets out the specific changes to FCA rules we are proposing to facilitate the expansion of the DAS to the securities, insurance and pensions sector as defined in the Dormant Assets Act 2022.

### Record keeping

#### *Insurance and pensions assets*

- 3.2 Section 3 of the Dormant Asset Act defines eligible insurance proceeds. These are defined as the cash proceeds of a contract of long-term insurance, after the appropriate adjustments have been made for such things as interest due and fees and charges payable. Section 6 defines eligible pension proceeds as being either: first, benefits in the form of income withdrawal that have become payable under a personal pension scheme, or second, benefits that have become payable under a personal pension scheme. Our proposed rules in this consultation paper define these assets by reference to the relevant provisions of the Dormant Asset Act 2022.
- 3.3 We are not proposing to introduce any additional rules or guidance in relation to record keeping as we consider that our existing rules are sufficiently detailed and broad to protect consumers where insurers and pension providers voluntarily participate in the DAS.
- 3.4 We considered introducing additional rules and guidance to require providers participating in the DAS to provide customers with information regarding the terms of the schemes, as we have previously done in another part of the Handbook<sup>1</sup>. However, we consider that it is already implicit from the existing rules that providers must have adequate record keeping in place. For example, existing obligations in SYSC already require firms to keep adequate records in relation to their dealings with customers such as transactions, communications and contact details.
- 3.5 We note that some eligible pensions assets could be client money under the Client Assets Sourcebook (CASS). As part of this proposed first phase of expansion, no assets that are client money under CASS will be transferred to the DAS. As noted in Chapter 2, we are working closely with HM Government, RFL and industry to facilitate further expansion of DAS in other asset classes (including client money) and will issue a further consultation in due course.

#### *Securities*

- 3.6 We do not regulate companies that may contribute securities assets to the DAS except insofar as these are regulated financial services firms. We are therefore not proposing to introduce new rules in this area.
- 3.7 The Companies Act 2006 set a requirement that the companies owners/directors must maintain a register of shareholders which is also submitted as part of the

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<sup>1</sup> See BCBS 5.1.9R and BCBS 5.1.10R

annual filings for Companies House. Shareholders who qualify as having significant control have to provide names and addresses to Companies House. While we set obligations for companies that list in the UK through our Listings Rules and for issuers with transferable securities admitted to trading on UK regulated markets through our Disclosure Transparency Guidance and Rules (DTRs), these requirements on issuers, for example, obligations (under DTR 4) for companies to submit annual financial information, and (under DTR 5) to notify us when shareholdings change (as a % of shareholder voting rights), are not related to DAS rules.

- 3.8 We encourage all firms that choose to participate in the DAS to work with RFL or any other authorised reclaim fund throughout the process to mitigate any risk of harm to customers. This includes keeping sufficient records to identify customers whose assets have been contributed to the scheme and working with RFL to manage records in the event of winddowns or insolvency.

**Q1:** *Do you agree with our proposed approach to expansion? If not, what should we consider?*

## Amendments to our glossary

- 3.9 We are proposing several changes to the FCA glossary where dormant assets arise to reflect the amendments brought on by the Dormant Assets Act 2022. These changes will ensure that the definitions relating to dormancy in our handbook capture the widening of the DAS to include insurance and pensions assets.
- 3.10 A full list of changes to the glossary can be found in the draft handbook text in appendix 1.

**Q2:** *Do you agree with our amendments to glossary definitions? If not, what should we consider?*

## Amendments to DISP

- 3.11 The Financial Ombudsman Service (Financial Ombudsman) is an independent body set up by Parliament to resolve certain complaints between eligible complainants and businesses that provide financial services. Its role is to resolve these disputes quickly and with minimum formality, on the basis of what is fair and reasonable in all the circumstances of the case.
- 3.12 The FCA is responsible for setting the rules for the complaints under the 'compulsory jurisdiction' (CJ) of the Financial Ombudsman. Rules in our 'Dispute resolution: Complaints' sourcebook (DISP) cover (amongst other things) what kinds of complaints the Financial Ombudsman can consider under the CJ and who is eligible to complain.
- 3.13 The Financial Ombudsman also has its own voluntary jurisdiction (VJ) which covers some types of complaint not covered by the CJ and which financial services firms may choose to participate in and which the Financial Ombudsman oversees. The Financial Ombudsman is planning not to mirror our proposed changes to the CJ in the VJ. Given the nature of the regulated activities in question, the fact that RFL is presently the only entity that has been authorised to carry them out, and that RFL is



already subject to the CJ, the Financial Ombudsman considers it unnecessary to mirror the changes to the CJ in the VJ.

- 3.14 As a result, the Financial Ombudsman is proposing to make certain amendments to the VJ rules, guidance and standard terms, in order to make it clear that activities relating to the dormant asset scheme are not covered by the VJ.
- 3.15 As such, this part of the consultation is issued jointly by the FCA and the Financial Ombudsman.
- 3.16 RFL is already subject to the CJ and is required to comply with DISP, including the complaint handling rules in DISP 1, which contains rules and guidance on how firms should deal promptly and fairly with complaints from eligible complainants.
- 3.17 To be an 'eligible complainant' for the purposes of the CJ a person must be a 'consumer' or one of the other categories of eligible complainant set out in DISP 2.7.3R. The person must also have a complaint which arises from a matter relevant to one or more of the relationships listed in DISP 2.7.6R.
- 3.18 Under the existing scheme, a customer who is (or was) a customer of a bank or building society which transferred any balance from a dormant account to the dormant account fund operator is eligible to refer a complaint about RFL to the Financial Ombudsman (DISP 2.7.6R(14)).
- 3.19 We propose to amend DISP 2.7.6R by adding a couple of new provisions (see DISP 2.7.6R(14A) and (14B) in draft instrument) so that customers (or former customers) of insurers and pension providers that transfer assets to RFL are also eligible to complain to the Financial Ombudsman about RFL. This will provide customers of insurers and pension providers, who have assets transferred to RFL under the expanded scheme, with the same access to a dispute resolution service that is available to those who have assets transferred under the existing scheme.

**Q3:** *Do you agree with our proposal to enable customers (or former customers) of insurers and pension providers who have assets transferred to a dormant asset fund operator to refer a complaint about the dormant asset fund operator to the Financial Ombudsman?*

**Q4:** *Do you agree with the Financial Ombudsman's proposals to exclude activities relating to the dormant asset scheme from the VJ?*

# Annex 1 Questions in this paper

*Q1: Do you agree with our proposed approach to expansion? If not, what should we consider?*

*Q2: Do you agree with our amendments to glossary definitions? If not, what should we consider?*

*Q3: Do you agree with our proposal to enable customers (or former customers) of insurers and pension providers who have assets transferred to a dormant asset fund operator to refer a complaint about the dormant asset fund operator to the Financial Ombudsman?*

*Q4: Do you agree with the Financial Ombudsman's proposals to exclude activities relating to the dormant asset scheme from the VJ?*

## Annex 2 Cost benefit analysis

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. We believe that our proposed changes will lead to no increase in costs or that the increase will be of minimal significance. We are not introducing new rules but are instead making amendments to allow firms to voluntarily participate in the DAS.

## Annex 3 Compatibility statement

When consulting on proposed changes to our Handbook, we are required by section 138I(2) of FSMA to explain why we believe that making those changes is consistent with our strategic objective, advances one or more of our operational objectives, and has regard to the regulatory principles in section 3B of FSMA. We are also required, to have regard to the principles in the Legislative and Regulatory Reform Act 2006, the remit letter, and the Regulators' Compliance Code.

We are satisfied that our proposed changes are compatible with our objectives and regulatory principles. The changes that we are proposing enhance consumer protection and promote market integrity by amending the FCA handbook to enable expansion of the Dormant Assets Scheme.

As set out above, we consider the proposed updates to the FCA handbook will support firms in contributing assets to the DAS. In turn, more dormant funds can be put towards good uses and to benefit UK consumers. We consider the measures to be proportionate considering section 3B of FSMA, since we do not expect these changes to create any material costs.

### Equality and diversity

We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.

Whilst assets transferred to the DAS will likely come from older demographics, overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010. This is because the DAS ensures all money contributed can be repaid fully in perpetuity. However, we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.

### Mutual Societies

Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared to other authorised persons. The proposed changes are not expected to have a significantly different impact on mutual societies.

## Annex 4 Abbreviations in this document

<b>Abbreviation</b>	<b>Description</b>
<b>ARF</b>	Authorised Reclaim Fund
<b>DAS</b>	Dormant Assets Scheme
<b>FSCS</b>	Financial Service Compensation Scheme
<b>RFL</b>	Reclaim Fund Limited

# Appendix 1 Draft Handbook text

## DORMANT ASSETS INSTRUMENT 2022

### **Powers exercised by the Financial Conduct Authority**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137T (General supplementary powers);
    - (c) section 138D (Action for damages);
    - (d) section 139A (Power of the FCA to give guidance); and
    - (e) section 226 (Compulsory jurisdiction).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.
- C. The Financial Conduct Authority consents to and approves the rules and guidance and standard terms made and amended and fixed and varied by the Financial Ombudsman Service Limited, as set out Annex F.

### **Powers exercised by the Financial Ombudsman Service Limited**

- D. The Financial Ombudsman Service Limited makes and amends the rules and guidance for the Voluntary Jurisdiction and fixes and varies the standard terms for Voluntary Jurisdiction participants, as set out in Annex F to this instrument, in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 227 (Voluntary jurisdiction);
  - (2) paragraph 8 (Information, advice and guidance) of Schedule 17;
  - (3) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
  - (4) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17.
- E. The making and amendment of the rules and guidance and the fixing and varying of the standard terms by the Financial Ombudsman Service Limited, as set out at paragraph D above, is subject to the consent and approval of the Financial Conduct Authority.

## Commencement

F. This instrument comes into force on [*date*].

## Amendments to the Handbook

G. The modules of the FCA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Fees manual (FEES)	Annex C
Banking: Conduct of Business sourcebook (BCOBS)	Annex D
Supervision manual (SUP)	Annex E
Dispute Resolution: Complaints sourcebook (DISP)	Annex F

## Amendments to material outside the Handbook

H. The Perimeter Guidance manual (PERG) is amended in accordance with Annex G to this instrument.

## Citation

I. This instrument may be cited as the Dormant Assets Instrument 2022.

By order of the Board of the Financial Conduct Authority

[*date*]

By order of the Board of the Financial Ombudsman Service Limited

[*date*]



## Annex A

### Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

*dealing with unwanted asset money*      the *regulated activity* specified in article 63N(1)(c) of the *Regulated Activities Order*.

Amend the following definitions as shown.

*account*      ~~(in relation to a *dormant account*) has the meaning given in section 9 of the Dormant Bank and Building Society Accounts Act 2008, which is in summary:~~

(1)      (in relation to a *dormant ~~account~~ asset relating to a bank or building society*) has the meaning given in section 9 of the Dormant Bank and Building Society Accounts Act 2008, which is in summary:

(a)      an account which has at all times consisted only of *money* and is provided by a *bank* or *building society* as part of its activity of *accepting deposits*; and

(b)      in relation to a *building society*, it includes an account representing shares in the *society*, other than:

(i)      preferential *shares*; or

(ii)      deferred *shares* within the meaning given in section 119(1) of the Building Societies Act 1986.

(2)      (in relation to a *dormant asset relating to a long-term insurance contract*) has the meaning given in section 3 of the Dormant Assets Act 2022 in relation to eligible insurance proceeds, which

in summary is cash proceeds of a long-term insurance contract, after the appropriate adjustments have been made for such things as interest due and fees and charges payable, but excluding a contract relating to a with-profits policy, or an industrial assurance policy, or a policy that is subject to a trust, or proceeds held in a lifetime ISA where their transfer to a dormant asset fund operator would result in liability to pay a withdrawal charge to HMRC.

(3) (in relation to a dormant asset relating to a personal pension scheme) has the meaning given in section 6 of the Dormant Assets Act 2022 in relation to eligible pension benefits, which in summary means any of the following amounts (that have become payable after the appropriate adjustments have been made for such things as interest due and fees and charges payable):

(a) pension benefits in the form of income withdrawal that have become payable under a personal pension scheme; or

(b) pension benefits that have become payable under a personal pension scheme:

(i) under which all benefits that may be provided are money-purchase benefits; and

(ii) which is not and has at no time been a qualifying scheme or an automatic enrolment scheme in relation to the member to or in respect of whom the benefits are payable; or

(c) any amount available to be paid as benefits under a personal pension scheme of a kind mentioned in (b),

but excluding benefits provided from sums invested in a with-profits fund.

*balance*

(in relation to a *person's account*) has the meaning given in section 8 of the Dormant Bank and Building Society Accounts Act 2008, which is in summary the amount owing to the *person* in respect of the *account* at any particular time, after the appropriate adjustments have been made for such things as interest due and fees and charges payable. In relation to a time after a transfer of the *balance* to a ~~dormant~~ *dormant asset fund operator*, the adjustments include those that would fall to be made but for the transfer or transfers.

*client*

...

(B)

...

(6) ...

(7) (in relation to ~~a dormant account~~ money transferred to a *dormant account asset fund operator*) a person entitled to ~~the balance in the dormant account held with a bank or building society which was transferred to a dormant account fund operator.~~ make a repayment claim.

*common platform firm*

(a) a MIFIDPRU investment firm; or

(aa) a bank; or

(ab) a building society; or

(ac) a designated investment firm; or

(ad) [deleted]

(b) [deleted]

(c) [deleted]

(d) a dormant ~~account~~ asset fund operator.

*dormant account asset*

(1) (in relation to a bank or building society) has the meaning given in section 10 of the Dormant Bank and Building Society Accounts Act 2008, which is in summary an *account* that at a particular point in time:

(a) has been open throughout the period of 15 years ending at that time; and

(b) during that period no transactions have been carried out in relation to the *account* by or on the instructions of the holder of the *account*; or

(2) (in relation to long-term insurance contract) has the meaning given in section 4 of the Dormant Assets Act 2022, which in summary is any of the four conditions set out in section 4 that must be met for an asset to be considered dormant in relation to eligible insurance proceeds; or

(3) (in relation to a personal pension scheme) has the meaning given in section 7 of the Dormant Assets Act 2022, which in summary is any of the four conditions set out in section 7 that must be met for

an asset to be considered dormant in relation to eligible pension benefits.

- dormant ~~account~~ asset funds*
- (1) (in relation to a bank or building society) has the meaning given in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008, which is money paid to a dormant ~~account~~ asset fund operator by a bank or building society in respect of a dormant ~~account~~ asset; or
  - (2) (in relation to long-term insurance contract) is money paid to a dormant asset fund operator by an insurer in accordance with section 2(1) of the Dormant Assets Act 2022; or
  - (3) (in relation to a personal pension scheme) is money paid to a dormant asset fund operator by an operator of a personal pension scheme in accordance with section 5(1) of the Dormant Assets Act 2022.

*dormant ~~asset~~ ~~account~~ fund operator*

a firm with permission for operating a dormant ~~account~~ asset fund.

*managing dormant ~~account~~ asset funds (including the investment of such funds)*

the regulated activity, specified in article 63N(1)(b) of the Regulated Activities Order, which is ~~the acceptance of a transfer by a bank or building society of the balance of a dormant account, or a proportion of such a balance, and the management of those funds (including the investment of such funds) in such a way as to enable the dormant account fund operator to meet whatever repayment claims it is prudent to anticipate.~~ means:

- (a) the acceptance of a transfer by a bank or building society of the balance of a dormant asset, or a proportion of such a balance, and:
  - (i) the acceptance of transfers of amounts as mentioned in section 1(1)(a) or 2(1)(a) of the Dormant Bank and Building Society Accounts Act 2008; or
  - (ii) section 2(1)(a), 5(1)(a) or 14(1)(a) of the Dormant Assets Act 2022;
- (b) the management of those funds in such a way as to enable the dormant asset fund operator to meet whatever repayment claims it is prudent to anticipate; and
- (c) dealing with those funds with a view to the transfer of amounts to the body or bodies for the time being specified in section 16 of the Dormant Bank and Building Society Accounts Act 2008.

<i>meeting of repayment claims</i>	the <i>regulated activity</i> , specified in article 63N(1)(a) of the <i>Regulated Activities Order</i> , which is the meeting of <i>repayment claims</i> by a <del>dormant account</del> <u>asset fund operator</u> .
<i>operating a dormant <del>account</del> asset fund</i>	any of the <i>regulated activities</i> of: <ul style="list-style-type: none"> <li>(a) <i>meeting of repayment claims</i>; or</li> <li>(b) <i>managing dormant <del>account</del> asset funds (including the investment of such funds)</i>.</li> </ul>
<i>regulated activity</i>	(A) in the <i>PRA Handbook</i> : <ul style="list-style-type: none"> <li>...</li> <li>(sj) <i>managing dormant <del>account</del> asset funds (including the investment of such funds)</i> (article 63N(1)(b));</li> <li>...</li> </ul> (B) in the <i>FCA Handbook</i> : (in accordance with section 22 of the Act (Regulated activities)) the activities specified in Part II (Specified activities), Part 3A (Specified activities in relation to information) and Part 3B (Claims management activities in Great Britain) of the <i>Regulated Activities Order</i> , which are, in summary: <ul style="list-style-type: none"> <li>...</li> <li>(sj) <i>managing dormant <del>account</del> asset funds (including the investment of such funds)</i> (article 63N(1)(b));</li> <li>...</li> </ul>
<i>repayment claim</i>	<del>(in relation to a dormant account)</del> a claim for repayment made by virtue of sections 1(2)(b) or 2(2)(b) of the Dormant Bank and Building Society Accounts Act 2008, <del>that is, in summary, that the customer has against the dormant account fund operator</del> whatever right to payment of the balance the customer would have against the bank or building society if the transfer (or in the case of section 2(2)(b), transfers) had not happened. In this definition, ‘customer’ is the person who held with a <i>bank or building society</i> the <i>balance</i> of a <i>dormant account</i> transferred to a <i>dormant <del>account fund operator</del></i> or of sections 2(2)(b), (3)(b), 5(2)(b), or 14(2)(b) of the <u>Dormant Assets Act 2022</u> .

## Annex B

### Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 1 Application and purpose

...

#### 1 Annex 1 Detailed application of SYSC

...

Part 2	Application of the common platform requirements <u>(SYSC 4 to 10)</u>		
...			
2.11	R	The <i>common platform requirements on financial crime</i> apply as set out in SYSC 1 Annex 1 2.8R, except that they do not apply:	
		...	
		(2)	in relation to the following <i>regulated activities</i> :
			...
		(h)	<i>meeting of repayment claims and managing dormant <del>account</del> <u>asset funds</u> (including the investment of such funds).</i>
...			

Part 3	Tables summarising the application of the common platform requirements to different types of firm	
...		
Common platform firm		
3.2	G	For a <i>common platform firm</i> (other than a <i>dormant <del>account</del> <u>asset fund</u> operator</i> not subject to MiFID):

		...
...		
3.2-A	R	For a <i>common platform firm</i> (other than a <del>dormant</del> <i>asset fund operator</i> not subject to <i>MiFID</i> ), articles 1(2), 21 to 25, 30 to 35 and 72 of the <i>MiFID Org Regulation</i> apply to the <i>firm's</i> business other than <i>MiFID business</i> or <i>structured deposits regulated activities</i> as if the <i>MiFID Org Regulation</i> applied to the <i>firm</i> as rules in accordance with <i>SYSC 1 Annex 1 2.8R</i> and <i>SYSC 1 Annex 1 2.8AR</i> .
3.2-B	R	For a <i>common platform firm</i> that is a <del>dormant</del> <i>asset fund operator</i> and is not subject to <i>MiFID</i> :
		...
...		

## Annex C

### Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 3 Application, Notification and Vetting Fees

...

#### 3 Annex 1R Authorisation fees payable

...

Part 2- Pricing categories applicable to applications made in the following activity groupings in the A, B, C, CC and CMC fee blocks

Activity grouping	Description	Applicable pricing category in FEES 3 Annex 1AR
A.1	<i>Deposit acceptors (excluding e-money issuers and credit unions) and dormant <del>account</del> <u>asset</u> fund operators</i>	7
...		

#### 3 Annex 16R Fees for an application for variation of permission

The fee relevant to the application is due on or before the date the application is made.

Application type		Applicable pricing category in FEES 3 Annex 1AR
1	Reduction in the scope of the applicant's permissions and no other increases	N/A



...		
6	Any applicant in activity group A.1 which applies for the permissions of <i>meeting of repayment claims</i> or <i>managing dormant <del>account</del> asset funds</i> (including the investment of such funds)	...
...		

#### 4 Periodic fees

...

#### 4 Annex 1AR FCA activity groups, tariff bases and valuation dates

The fee relevant to the application is due on or before the date the application is made.

Part 1
This table shows how the <i>FCA</i> links the <i>regulated activities</i> for which a <i>firm</i> has <i>permission</i> to activity groups (fee-blocks). A <i>firm</i> can use the table to identify which fee-blocks it falls into based on its <i>permission</i> .

Activity group	Fee payer falls in the activity group if:
<b>A.1 Deposit acceptors</b>	its <i>permission</i> includes <i>accepting deposits</i> or <i>operating a dormant <del>account</del> asset fund</i> <b>BUT DOES NOT</b> include either of the following: <i>effecting contracts of insurance;</i> <i>carrying out contracts of insurance.</i>
...	

Part 2
This table sets out the activity groups (fee blocks) in relation to (i) the minimum fees payable to the <i>FCA</i> and (ii) the prudential fee payable to the <i>FCA</i> .

Activity group	Fee payer falls into the fee-block if
----------------	---------------------------------------

A.0 <i>FCA</i> minimum fee	<p>(1) it is in at least one of the fee blocks under Part 1; and</p> <p>(2) it is not:</p> <p>(a) a <i>UK ISPV</i>; or</p> <p>(b) a <i>firm</i> whose only <i>permission</i> is operating a dormant <u>asset fund <del>account</del></u>; or</p> <p>(c) a <i>firm</i> exclusively carrying on <i>credit-related regulated activities</i>.</p>
...	

**Part 3**

This table indicates the tariff base for each fee-block set out in Part 1.

The tariff base in this Part is the means by which the *FCA* measures the amount of business conducted by a *firm* for the purposes of calculating the annual periodic fees payable to the *FCA* by that *firm*.

Activity group	Tariff base
<b>A.1</b>	...
	<p><b>Note:</b></p> <p>For a dormant <del>account</del> <u>asset fund operator</u> the tariff base is not relevant and the flat fee in <i>FEES</i> 4 Annex 2AR is payable.</p>
...	

**Part 4**

This table indicates the tariff base for each fee block set out in Part 2.

The tariff base in this Part is the means by which the *FCA* measures the amount of business conducted by a *firm* for the purposes of calculating the annual periodic fees payable to the *FCA* by that *firm*.

Activity group	Tariff base
...	
AP.0	<p>The total periodic fees payable as a result of fee blocks A.2 and A.7 to A.19 and A.23 in Part 1 of <i>FEES</i> 4 Annex 2AR excluding any periodic fee for operating a dormant <u>asset fund <del>account</del></u>.</p>

...	
-----	--

**4 Annex FCA Fee rates for the period from 1 April 2021 to 31 March 2022**  
**2AR**

...

<p>Part 1</p> <p>This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of <i>FEES</i> 4 Annex 1AR.</p>
...

Activity group	Fee payable
A.1	...
...	
	The tariff rates in A.1 are not relevant for the <i>permissions</i> relating to <i>operating a dormant <del>account</del> asset fund</i> . Instead a flat fee of £6,367 is payable in respect of these <i>permissions</i> .
...	

**5 Financial Ombudsman Service Funding**

...

**5 Annex Annual General Levy Payable in Relation to the Compulsory Jurisdiction**  
**1R for 2021/22**

...

...

- The total amount expected to be raised through the *general levy* in 2021/22 will be £96.0m

**Compulsory jurisdiction - general levy**

Industry block	Tariff base	General levy payable by firm
1-Deposit acceptors, <i>home finance providers, home finance administrators</i> (excluding firms in block 14) and <i>dormant <del>account</del> asset fund operators</i>	Number of accounts relevant to the activities in <i>DISP 2.6.1R</i> as at 31 December  In the case of <i>dormant <del>account</del> asset fund operators</i> , the tariff base is the number of eligible activated accounts (8).	£0.12010 per relevant account, subject to a minimum levy of £100
...		
Notes		
...		
8	Eligible activated accounts are the number of <i>repayment claims</i> met by the <i>dormant <del>account</del> asset fund operator</i> as at <del>the</del> 31 December.	
...		

## 6 Financial Services Compensation Scheme Funding

...

### 6 Annex 3AR Financial Services Compensation Scheme - classes and categories

...

<b>Class 2</b>	<b>Investment Intermediation Claims</b>
...	
<b>Category 2.4</b>	<b>Structured deposits provision</b>
<b>Firms with permission for:</b>	<i>accepting deposits</i> and/or <i>operating a dormant <del>account</del> asset fund</i> . BUT does not include any fee payer who either effects or carries out <i>contracts of insurance</i> .

...	
-----	--

<b>Class 6</b>	<b>Deposit acceptors' contribution</b>
<b>Firms with permission for:</b>	<i>accepting deposits and/or operating a dormant <del>account</del> <u>asset fund</u>. BUT does not include any fee payer who either effects or carries out <i>contracts of insurance</i>.</i>

## Annex D

### Amendments to the Banking: Conduct of Business sourcebook (BCOBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 5 Post sale

#### 5.1 Post sale requirements

...

#### Lost and dormant ~~accounts~~ assets

...

- 5.1.10 R If a *firm* participates in the scheme under the *Dormant Bank and Building Society Accounts Act 2008*, it must inform a *banking customer* of this fact and provide appropriate information regarding the terms of the scheme on entering into communications with a *banking customer* regarding a *dormant ~~account~~ asset*.



## Annex E

### Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 3 Auditors

##### 3.1 Application

...

##### 3.1.2 R Applicable sections (see SUP 3.1.1R)

...

(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
...		
(4) <i>Bank, building society or dormant <del>account</del> <u>asset fund</u> operator which in each case carries on <i>designated investment business</i> (Notes 2A and 6)</i>	<i>SUP 3.1 - SUP 3.7, SUP 3.11</i>	<i>SUP 3.1, SUP 3.2, SUP 3.8, SUP 3.10</i>
(5) <i>Bank, building society or dormant <del>account</del> <u>asset fund</u> operator which in each case does not carry on <i>designated investment business</i> (Notes 2A)</i>	<i>SUP 3.1 - SUP 3.7</i>	<i>SUP 3.1, SUP 3.2, SUP 3.8</i>

...

#### 6 Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements

...

##### 6.2 Introduction

...

#### Firms with long term liabilities to customers

- 6.2.8 G Discussions with the *appropriate regulator* are particularly relevant where the *firm* has to discharge obligations to its *customers* or policyholders before it can cease carrying on a *regulated activity*. This may be the case, for example, where the *firm* is an *insurer*, a *bank*, a *dormant ~~account~~ asset fund operator*, or, as is often the case, holding *client money* or customer assets.
- 6.2.9 G If an *insurer*, a *bank*, or a *dormant ~~account~~ asset fund operator* wishes to cease carrying on all *regulated activities* for which it has *Part 4A permission*, it will usually be necessary to wind down the business over a long term period which is normally more than six months. This may also be the case for a *firm* holding *client money* or customer assets. In these circumstances, it will usually be appropriate for the *firm* to apply for variation of its *Part 4A permission* and/or imposition of a new *requirement*, variation of any existing *requirement* or cancellation of such a *requirement* before commencing the wind-down. A *firm* should only make an application for cancellation of *permission* when it expects to complete its wind-down (run-off) within six months.

...

#### 6.4 Applications for cancellation of permission

...

- 6.4.4 G Additional guidance for a *firm* carrying on *insurance business*, *accepting deposits*, *operating a dormant ~~account~~ asset fund* or which holds *client money* or *customer's* assets is given in *SUP 6 Annex 4*. As noted in *SUP 6.2.9G*, it will usually be appropriate for a *firm* to apply for variation of its *Part 4A permission* and/or the imposition, variation or cancellation of a *requirement* while winding down (running off) its *regulated activities* and before applying to cancel its *Part 4A permission*.

...

#### 6 Additional guidance for a firm winding down (running off) its business Annex 4.1G

1. If a *firm* has *Part 4A permission* which enables it to hold *client money* or to carry on *regulated activities* including:

...



- (d) *meeting of repayment claims or managing dormant ~~account~~ asset funds (including the investment of such funds);*

...

...

## 15 Notifications to the FCA

...

### 15.3 General notification requirements

...

Communication with the appropriate regulator in accordance with Principle 11

...

15.3.8 G Compliance with *Principle 11* includes, but is not limited to, giving the *FCA* notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *firm's* risk profile or resources, including, but not limited to:

...

- (e) entering into, or significantly changing, a *material outsourcing* arrangement (a *bank*, a *building society* and a *dormant ~~account~~ asset fund operator* should also see *SYSC 8*, and an *insurer* should also see *SYSC 13.9* for further details); or

...

- (i) in relation to a *dormant ~~account~~ asset fund operator*, notify the *FCA* when the operator intends to rely on a third party for the performance of operational functions which are critical or important for the performance of relevant services and activities in connection with *operating a dormant ~~account~~ asset fund* on a continuous and satisfactory basis;

...

...

## 16 Reporting requirements

**16.1 Application**

...

**16.1.3 R Application of different sections of SUP 16 (excluding SUP 16.13, SUP 16.15, SUP 16.22 and SUP 16.26)**

<b>(1) Section(s)</b>	<b>(2) Categories of firms to which this section applies</b>		<b>(3) Applicable rules and guidance</b>
...			
SUP 16.10	<b>All categories of <i>firm</i> except:</b>		...
	(a)	an <i>ICVC</i> ; and	
	...		
	(d)	a <del>dormant account</del> <i>asset fund operator</i> .	
...			

**16.7A Annual report and accounts**

...

Requirement to submit annual report and accounts

**16.7A.3 R** A *firm* in the *RAG* in column (1) and which is a type of *firm* in column (2) must submit its *annual report and accounts* to the *FCA* annually on a single entity basis.

(1)	(2)
RAG	Firm type
1	<i>UK bank</i>
	<del><i>Dormant account</i></del> <i>asset fund operator</i>
	<i>A non-UK bank</i>

**16.10 Verification of firm details**

Application

16.10.1 G The effect of *SUP* 16.1.1 R is that this section applies to every *firm* except:

...

(2A) an *AIFM* qualifier; or

(4) a dormant ~~account~~ asset fund operator.

...

**16.12 Integrated Regulatory Reporting**

...

Reporting requirement

...

16.12.4 R Table of applicable *rules* containing *data items*, frequency and submission periods

(1)		(2)	(3)	(4)
RAG number	Regulated activities	Provisions containing:		
		applicable <i>data items</i>	reporting frequency/period	due date
RAG 1	<ul style="list-style-type: none"> <li>• <i>accepting deposits</i></li> <li>• <i>meeting of repayment claims</i></li> <li>• <i>managing dormant <del>account</del> asset funds (including the investment of such funds)</i></li> </ul>	RAG 1 firms should complete their prudential reporting requirements as set out in the <i>PRA Rulebook</i> .		

...			
-----	--	--	--

## App 2 Insurers: Regulatory intervention points and run-off plans

### App 2.1 Application

...

App 2.1.5 G *SUP* App 2.1.7G is made by the *FCA* for the purpose of its application to dormant ~~account~~ asset fund operators, rather than insurers.

...

### App 2.2 Interpretation

App 2.2.1 R For the purpose of *SUP* App 2.1 to 2.14:

(1) “capital resources”:

...

(c) in relation to any other *firm* which is not a *Solvency II firm*, means the *firm*’s capital resources as calculated in accordance with:

(i) in the case of a dormant ~~account~~ asset fund operator, the version of *GENPRU 2.2.17R* that applied as at 31 December 2015 (the effect of which has been preserved for the purposes of *INSPRU 7*); and

...

### App 2.7 Capital resources below the level of individual capital guidance

App 2.7.1 G For a dormant ~~fund account~~ asset fund operator, unless any of *SUP* App 2.4.1R, *SUP* App 2.5.1R, *SUP* App 2.5.3R or *SUP* App 2.6.1R applies, if a *firm*’s circumstances change, such that its capital resources have fallen, or are expected to fall, below the level advised in *individual capital guidance* given to the *firm* by the *FCA*, then, consistent with *PRIN 2.1.1R Principle 11* (Relations with regulators), a *firm* should inform the *appropriate regulator* of this fact as soon as practicable, explaining why capital resources have fallen, or are expected to fall, below the level advised in *individual capital guidance*, and:

(1) ...

...

## Annex F

### Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

<b>2</b>	<b>Jurisdiction of the Financial Ombudsman Service</b>		
...			
<b>2.5</b>	<b>To which activities does the Voluntary Jurisdiction apply?</b>		
2.5.1R	R	The <i>Ombudsman</i> can consider a <i>complaint</i> under the <i>Voluntary Jurisdiction</i> if:	
		...	
		(2)	it relates to an act or omission by a <i>VJ participant</i> in carrying on one or more of the following activities:
		(a)	an activity (other than <i>auction regulation bidding</i> , <del>and administering a benchmark, <u>meeting of repayment claims and managing dormant asset funds (including the investment of such funds)</u></del> ) carried on after 28 April 1988 which:
		...	
		(c)	activities, other than <i>regulated claims management activities</i> , <del>and</del> activities ancillary to <i>regulated claims management activities</i> , <u><i>meeting of repayment claims and managing dormant asset funds (including the investment of such funds)</i></u> , which (at <del>30 April 2021</del> <u>21 July 2022</u> ) would be covered by the <i>Compulsory Jurisdiction</i> , if they were carried on from an establishment in the <i>United Kingdom</i> (these activities are listed in <i>DISP 2 Annex 1G</i> );
...			
<b>2.7</b>	<b>Is the complainant eligible?</b>		
...			
2.7.6	R	To be an <i>eligible complainant person</i> must also have a <i>complaint</i> which arises from matters relevant to one or more of the following relationships with the <i>respondent</i> :	
		(1)	...

		...		
		(14)	(where the <i>respondent</i> is a <del>dormant account</del> <i>dormant asset fund operator</i> ) the complainant is (or was) a customer of a <i>bank</i> or <i>building society</i> which transferred any <i>balance</i> from a <del>dormant account</del> <i>dormant asset</i> to the <i>respondent</i> ;	
		(14A)	<u>(where the <i>respondent</i> is a <i>dormant asset fund operator</i>) subject to DISP 2.7.6AR, the complainant is (or was) a <i>person</i> to whom the proceeds of a <i>long-term insurance contract</i> were payable by an <i>insurer</i>, but which instead were transferred by the <i>insurer</i> to the <i>respondent</i>;</u>	
		(14B)	<u>(where the <i>respondent</i> is a <i>dormant asset fund operator</i>) subject to DISP 2.7.6BR, the complainant is (or was) a <i>member</i> of a <i>personal pension scheme</i> which transferred any eligible pension benefits due to the complainant to the <i>respondent</i>;</u>	
		...		
<u>2.7.6A</u>	<u>R</u>	(1)	<u>In DISP 2.7.6R(14A) a <i>long-term insurance contract</i> does not include:</u>	
			(a)	<u>a <i>with-profits policy</i>;</u>
			(b)	<u>an <i>industrial assurance policy</i>; or</u>
			(c)	<u>a <i>policy</i> that is the subject of a trust.</u>
		(2)	<u>DISP 2.7.6R(14A) does not include proceeds of a <i>contract of insurance</i> held in a <i>lifetime ISA</i> if their transfer to a <i>dormant asset fund operator</i> resulted in (or would result in) liability to pay a <i>lifetime ISA government withdrawal charge</i>.</u>	
<u>2.7.6B</u>	<u>R</u>	(1)	<u>In DISP 2.7.6R(14B) ‘eligible pension benefits’ means:</u>	
			(a)	<u>benefits in the form of <i>income withdrawal</i> that have become payable under a <i>personal pension scheme</i>;</u>
			(b)	<u>benefits that have become payable under a <i>personal pension scheme</i>:</u>
			(i)	<u>under which all benefits that may be provided are <i>money-purchase benefits</i>;</u>
			(ii)	<u>which is not and has at no time been a <i>qualifying scheme</i> or an <i>automatic enrolment scheme</i> in relation to the member to, or in respect of, whom the benefits are payable; or</u>

			(c)	an amount available to be paid as benefits under a <i>personal pension scheme</i> of a kind mentioned in paragraph (b).
		(2)		Benefits under a <i>personal pension scheme</i> are excluded from being ‘eligible pension benefits’ (in <i>DISP 2.7.6R(14B)</i> ) if (or to the extent that) they are provided from sums invested in a <i>with-profits fund</i> .
		...		
<b>2 Annex 1</b>	<b>Regulated Activities for the Voluntary Jurisdiction at <del>30 April 2021</del> <u>21 July 2022</u></b>			
	This table belongs to <i>DISP 2.5.1R</i>			
	G	The activities which were covered by the <i>Compulsory Jurisdiction</i> (at <del>30 April 2021</del> <u>21 July 2022</u> ) were:		
		(1)	for <i>firms</i> :	
			(a)	<i>regulated activities</i> (other than <i>auction regulation bidding</i> , and <i>administering a benchmark</i> );
		...		
		The activities which (at <del>30 April 2021</del> <u>21 July 2022</u> ) were <i>regulated activities</i> were, in accordance with <i>section 22</i> of the <i>Act</i> ( <i>Regulated Activities</i> ), any of the following activities specified in <i>Part II</i> and <i>Parts 3A</i> and <i>3B</i> of the <i>Regulated Activities Order</i> (with the addition of <i>auction regulation bidding</i> and <i>administering a benchmark</i> ):		
		(1)	accepting deposits (article 5);	
		...		
		(38D)	<i>managing dormant <del>account</del> asset funds</i> (including the investment of such funds) (article 63N(1)(b));	
		...		
<b>4</b>	<b>Standard terms</b>			
...				
	<b>Application of DISP 1 to DISP 3</b>			
4.2.3	R	The following rules and guidance apply to <i>VJ participants</i> as part of the <i>standard terms</i> , except where the context requires otherwise:		
		...		



		(2)	<i>DISP 2</i> (Jurisdiction of the Financial Ombudsman Service), except:	
			(a)	<i>DISP 2.3</i> (Compulsory Jurisdiction); <del>and</del>
			(b)	<u><i>DISP 2.7.6(14)</i></u> ;
			(c)	<u><i>DISP 2.7.6(14A)</i></u> ;
			(d)	<u><i>DISP 2.7.6(14B)</i></u> ; and
		...		

## Annex G

### Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 2 Authorisation and regulated activities

...

#### 2.5 Investments and activities: general

...

2.5.1-A G The following *regulated activities* may be carried on in relation to property of any kind:

...

(8) *meeting of repayment claims; and*

(9) *managing dormant ~~account~~ asset funds (including the investment of such funds); and*

(10) *dealing with unwanted asset money.*

...

#### 2.7 Activities: a broad outline

...

Dormant account funds

2.7.20C G There are ~~two~~ three *regulated activities* associated with the activities of a *dormant ~~account~~ asset fund operator under the ~~Dormant Bank and Building Society Accounts Act 2008~~*:

(1) *the meeting of repayment claims; and*

(2) *managing dormant ~~account~~ asset funds (including the investment of such funds); and*

(3) *dealing with unwanted asset money.*

...

## Agreeing

- 2.7.21 G Agreeing to carry on most *regulated activities* is itself a *regulated activity*. But this is not the case if the underlying activities to which the agreement relates are those of *accepting deposits, issuing electronic money, effecting or carrying out contracts of insurance, operating a multilateral trading facility, operating an organised trading facility, managing dormant ~~account~~ asset funds, the meeting of repayment claims, dealing with unwanted asset money, managing a UK UCITS, acting as trustee or depositary of a UK UCITS, managing an AIF, acting as trustee or depositary of an AIF, establishing, operating or winding up a collective investment scheme, establishing, operating or winding up a stakeholder pension scheme or establishing, operating or winding up a personal pension scheme*. A person will need to make sure that it has appropriate *authorisation* at the stage of agreement and before it actually carries on the underlying activity (such as the *dealing or arranging*).