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House of Lords

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My Lords,

I thank you once again for your valuable contributions to the debate during the Second Reading of the Dormant Assets Bill. I promised to write on the points I was unable to cover in my closing speech.

Commitment to consult

It is right that so much of the debate focused on how the money released through the expanded Scheme for good causes should be spent. I would like to affirm the government's commitment to launch a full public consultation on the social or environmental purposes to dedicate the English portion to. This commitment was published at the time of the Queen's Speech and is now on record following Second Reading.

Launching a consultation is dependent on the Bill passing with this measure included. Until the Bill has received Royal Assent, work cannot begin on its preparation. As such, it is too early to speculate on the potential causes which may be included in the consultation or in the future. The purpose of the consultation will be to give the public and industry stakeholders, on whose voluntary participation the Scheme relies, a say in how funds are spent in England.

Several causes were raised in the debate that the House considers to be the best use of future funding through the Scheme. Until we have been able to launch and then analyse the consultation, we are not able to commit to the ways in which funds will be used in the future. No decisions will be made on whether the causes in England should change until the responses to this consultation have been duly considered. Any Order must then be laid before and approved by both Houses, providing an additional opportunity for parliamentary engagement.

The causes must always fulfil a social or environmental purpose as well as adhere to the additionality principle. The 2008 Act describes the latter as the principle that dormant assets money should be used to fund projects, or aspects of projects, for which funds would be unlikely to be made available by a government department or devolved administration. This principle has been fundamental to the Scheme's success to date and



has not been breached. Last year, we released £150 million of dormant assets funding to support coronavirus response and recovery across England. This was distributed by the four spend organisations in line with the 2008 Act. It is important to note that this funding was entirely separate to the UK-wide £750 million charities support package announced in April 2020.

Inclusion of assets

Throughout the debate, Noble Lords asked a number of specific questions about the inclusion of certain types of assets.

I turn first to the inclusion of online investment platforms. I can confirm that the Bill is neutral about whether an institution happens to operate online. Provided that the online investment platform has the necessary Financial Conduct Authority (FCA) permissions and fulfils the other requirements of the Bill, they would be able to participate as any other eligible institution can. As Lord Patten observed, this is covered most clearly in the client money clauses but could be applicable to some of the other asset classes as well.

Some Noble Lords asked about why specific classes of assets were not included within the Bill, in particular Lord Bassam of Brighton highlighted the proceeds of crime and government land disposal, and Lady Kramer raised unclaimed winnings and dormant betting accounts. As Lord Bassam noted, this Bill focuses on financial services assets. At this stage, the government is not considering widening the net to include non-financial services assets such as proceeds from government land disposals, unclaimed winnings or dormant betting accounts. However, as you are aware, the Bill contains a power to extend the Scheme in the future by way of regulations. This would provide a more flexible avenue to consider or reconsider other types of non-financial assets in the future.

Baroness Noakes asked when the government next plans to review the inclusion of further dormant assets. We anticipate that Reclaim Fund Ltd (RFL) and industry stakeholders will need time to gain experience in managing the inclusion of these new and complex asset classes in the Scheme. We will work closely with them to determine the most appropriate time to consider additional assets once this expansion has bedded in more fully.

This will also provide the opportunity to reconsider asset types that were previously recommended for inclusion but which are not presently in scope. This includes certain insurance and pensions products that have been recommended by industry as being part of a later phase of expansion as they do not crystallise to cash through an existing legal mechanism. These asset types are not excluded from the Scheme; rather, further work is needed to understand how they could practically be brought into scope.

Separately to the Dormant Assets Scheme, the government is working with the financial sector to unlock suspected criminal funds held in 'frozen' accounts across the financial sector. This collaboration presents opportunities to fund additional initiatives important to the public and private sectors to counter economic crime. We will consider how these funds could be used, including whether suspended funds can be used to support victims of fraud.

Lord Bellingham asked whether the Bill could be extended on a voluntary basis to the Crown dependencies. I can confirm that there is no intention to do so at this time.

Reclaim Fund Ltd

RFL was a key topic in the debate, and I wanted to take the opportunity to answer some questions raised in the debate.

First, in response to Baroness Noakes' question, I can confirm that the Comptroller and Auditor General, operating through the National Audit Office (NAO), will audit RFL's accounts from the financial year 2021-22. For the transition period to 31 March 2021, the NAO had an agreed-upon-procedure arrangement with Ernst & Young, RFL's auditor prior to the transfer of legal ownership, to provide the necessary assurance for the information provided by RFL to the Treasury for the Treasury Group Annual Report and Accounts.

Second, Lord Bellingham asked about the opportunity for RFL to invest its reserves. Of the portion of assets RFL reserves, 60% is invested in a mix of AAA to A rated government bonds through to corporate bonds, which meet environmental, social, and governance (ESG) criteria. The remaining 40% balance is held in cash with the Bank of England. RFL meets its operating costs in full from the returns on its investments. In 2020, RFL made £4.6 million of investment income, and its operating costs were £3.6 million. RFL's approach to reserving is based on actuarial modelling and FCA guidance. As its role is to ensure that it can meet reclaims in perpetuity, it has a low appetite for risk when investing its reserves.

Cost of administering the Scheme

A number of Noble Lords requested more information on the operating costs of the Scheme. The annual costs for participants in the existing Scheme are estimated to be between 0.2% and 6.8% of assets transferred. As previously referenced, according to their latest Annual Report and Accounts, RFL's operating costs for 2020 were £3.6 million. From the inception of the Scheme in 2011, net costs defrayed by The National Lottery Community Fund, after deducting interest receipts, represented 0.04% of the sums it received from RFL.

Duties, disputes and data

In response to Baroness Bowles of Berkhamsted's question about fiduciary duties, clause 17 of the Bill 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, however. For example, where a participant acted negligently in managing an asset prior to its transfer, clause 17 will not extinguish that type of liability by virtue of the transfer.

Baroness Noakes asked how disputes about reclaims will be dealt with. Currently, owners have recourse to the Financial Ombudsman Service (FOS) to resolve these. However, some assets proposed for inclusion in an expanded Scheme do not naturally fall within the scope of the FOS – namely, securities assets (clauses 14–16). In these instances, we encourage industry and RFL to work with the FOS to reach an agreement on voluntary arbitration.

In response to Lord Blunkett, the government will continue to explore how government-held data could be safely used to support legitimate business practices which benefit and protect consumer rights. We also encourage our industry stakeholders to work together, where possible within the boundaries of data protection laws, to support their reunification efforts.

Clarifications

Finally, I would like to clarify two points I referred to in my closing speech. I referenced the work that Big Society Capital (BSC) has done in respect of social housing. I can confirm that the market size is over £2 billion, £800 million of which has come from BSC and its co-investors. This is an example of the multiplier effect that some of these specialist distribution organisations have had to date.

I also referenced a “bumper year” of funding in 2019. To confirm that this followed a reduction in RFL’s reserving rate in 2016. This enabled the government to commit £280 million of dormant assets funding in England over 2017–2020, £90 million of which funded the establishment of the Youth Futures Foundation and £55 million of Fair4All Finance.

I will place a copy of this letter in the Library of the House.

With best wishes,

A handwritten signature in cursive script, reading "Diana Barran".

The Baroness Barran

Parliamentary Under Secretary of State