

A UK unclaimed assets scheme: summary of responses to consultation

November 2007



HM TREASURY



HM TREASURY

**A UK unclaimed assets scheme:
summary of responses to
consultation**

November 2007

© Crown copyright 2007

The text in this document (excluding the Royal Coat of Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be sent to:

Office of Public Sector Information
Information Policy Team
St Clements House
2-16 Colegate
Norwich
NR3 1BQ

Fax: 01603 723000

E-mail: HMSOlicensing@opsi.x.gsi.gov.uk

HM Treasury contacts

This document can be found on the Treasury website at:

hm-treasury.gov.uk

For general enquiries about HM Treasury and its work, contact:

Correspondence and Enquiry Unit
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: ceu.enquiries@hm-treasury.gov.uk

Printed on at least 75% recycled paper.
When you have finished with it please recycle it again.

ISBN 978-1-84532-366-0

PU440

CONTENTS

		Page
Chapter 1	Introduction	3
Chapter 2	A UK unclaimed assets scheme	5
Chapter 3	Unclaimed assets distribution mechanism	21
Chapter 4	Next steps	35
Annex A	List of consultation respondents	37

INTRODUCTION

The consultation process **1.1** This report sets out the Government’s response to the consultation on proposals for a UK unclaimed assets scheme. The consultation exercise had two stages. In March 2007 HM Treasury published the first consultation document, “A UK unclaimed assets scheme: a consultation” which dealt with the overall structure of the proposed scheme. This consultation closed 12 June 2007. In May 2007 HM Treasury and the Office of the Third Sector published a joint consultation, “Unclaimed assets distribution mechanism: a consultation”, setting out proposals for the effective distribution of unclaimed assets across the UK. This consultation closed on 9 August 2007.

Purpose of the consultations **1.2** The purpose of the consultations was to seek views on the proposed unclaimed assets scheme announced in the 2005 Pre-Budget Report. The 2005 Pre-Budget Report announced that the Government had been working with the banking industry to design a scheme, which both preserved the rights of the individual consumer and at the same time allowed these assets to be reinvested in the community. The 2005 Pre-Budget Report also announced that the money should be reinvested in the community, with a focus on youth services that are responsive to the needs of young people, and also on financial education and exclusion.

Responses received **1.3** HM Treasury received 56 responses to the March consultation document and 167 to the May consultation document. Responses were received from a range of stakeholders including consumer organisations, third sector organisations, financial institutions, trade associations and private individuals.

This consultation response **1.4** The responses to the two consultations have informed the preparation of the Dormant Bank and Building Society Accounts Bill. This document summarises the responses:

- Chapter 2 Summarises the responses to the March consultation *A UK unclaimed assets scheme: a consultation* and sets out the Government’s response to these.
- Chapter 3 Summarises the responses to the May consultation *Unclaimed assets distribution mechanism: a consultation* and sets out the Government’s response to these.
- Chapter 4 Next steps.
- Annex A Provides details of the respondents to the March and May consultations.

1.5 We are grateful to everyone who responded to the consultation documents in writing and/or who met with us as part of the consultation process.

2

A UK UNCLAIMED ASSETS SCHEME

Consultation questions 2.1 The March consultation document, and its partial Regulatory Impact Assessment, invited responses on proposals to facilitate the transfer of money held in dormant bank and building society accounts to a scheme for reinvestment in the community. The consultation document sought responses on the following questions:

Box 2.1: List of questions for consultation

- Are the principles underpinning the scheme the right ones?
- What other cost-effective steps could be taken to reunite customers with their assets?
- Is the proposed level of publicity the most cost-effective approach?
- Do you agree that customers continuing to deal with their banks directly, and banks continuing to manage account information, is the simplest and most effective approach?
- Paragraphs 3.22-3.26 of the March consultation set out how customers will be notified of the changes involved under the scheme. Do you agree that this is the best means to notify customers?
- The scheme aims to protect the consumer – are the proposed protections appropriate and sufficient?
- Do you have any other comments on the suggested operating structure, taking into account the principles set out in paragraph 1.5 of the March consultation?
- Does a minimum requirement of no customer-initiated transactions best identify unclaimed assets?
- Does the definition of banks and building societies adequately cover the institutions participating in the scheme? Do you agree that banks and building societies that do not subscribe to the Banking Code should be permitted to participate in the scheme?
- Do you agree that banks and building societies should be permitted to disclose confidential information about an account to the reclaim fund for the purposes of establishing whether the fund is obliged to repay a customer and discharging that obligation?
- What level of assets best captures small locally-based institutions?
- Will the proposals for the operation of the small locally-based scheme enable these institutions to meet the agreed spending priorities in the local community effectively?
- Do you agree that the proposals will allow existing procedures for some types of dormant accounts to operate concurrently with an unclaimed assets scheme?

2.2 In addition, respondents provided comments on other related issues summarised at the end of this chapter.

Responses received

2.3 HM Treasury received 56 written responses during the consultation period. Respondents represented a broad range of interested stakeholders. In the main these were consumer organisations, which provided 7 per cent of the responses, financial institutions and their representatives, providing 10 per cent of the responses and third sector organisations and their representatives, making up 55 per cent of the replies. The vast majority of responses from third sector organisations were in the same format and advocated the establishment of a central unclaimed assets register and a scheme covering a wider range of assets. We also received replies from private individuals and businesses outside the financial services sector. All respondents have helped to provide a view of how the proposed scheme might operate and the potential effectiveness of its consumer protection provisions.

Broad support for the Government's proposals

2.4 The March consultation document asked questions in relation to money transferred to the proposed scheme and how consumers might be protected. Respondents were supportive of an unclaimed assets scheme that aimed, wherever possible, to reunite consumers with the assets that are rightfully theirs and where account holders would have the right to reclaim their money at any time. There was also a general endorsement that where money remained unclaimed that it should be used for the benefit of the wider community.

2.5 The comments received mainly addressed:

- the need for the proposed scheme to be transparent and accountable;
- activities designed to promote consumer awareness of dormant accounts in addition to how such activities could be made accessible to hard to reach consumers and their legal heirs.

2.6 The consultation's associated partial Regulatory Impact Assessment also asked several questions relating to the set up, compliance and overall costs of those potentially affected by the scheme.

ANALYSIS OF RESPONSES

QUESTION I

Are the principles underpinning the scheme the right ones?

2.7 The consultation document set out the four principles underlying the proposed scheme. These are:

1. Wherever possible, to re-unite account holders with the assets that are rightfully theirs.
2. To provide a legal right for account holders to reclaim their money at any time.
3. To take a light touch approach which minimises running costs for the scheme and participating institutions, by wherever possible building on the existing infrastructure, in order to maximise the money available for reinvestment in the community.

4. To take account of better regulation principles. The proposed UK scheme will therefore differ significantly from other international arrangements being in part a self-regulatory scheme. It is proposed that legislation will enable, but not compel, banks and building societies to transfer funds held in dormant accounts. Banks and building societies have committed to work with the Government to design, and participate in, the UK scheme.

Principles one and two

2.8 Principles one and two are:

1. Wherever possible, to re-unite account holders with the assets that are rightfully theirs; and
2. To provide a legal right for account holders to reclaim their money at any time.

Consultees strongly endorsed these principles, agreeing that the bank and building society sector should, wherever possible reunite account holders with their money and that account holders should have a right to reclaim their money back.

Principle three

2.9 Principle three is:

3. To take a light touch approach which minimises running costs for the scheme and participating institutions, by wherever possible building on the existing infrastructure, in order to maximise the money available for reinvestment in the community.

Over half of respondents agreed that the scheme should maximise funds for distribution. Many respondents thought that the scheme should be accountable and independently regulated and views were mixed as to whether a light touch approach could achieve this. One respondent also suggested that the scheme's reclaim fund should be located away from London to help minimise costs and provide some employment opportunities.

Principle four

2.10 Principle four is:

4. To take account of better regulation principles. The proposed UK scheme will therefore differ significantly from other international arrangements being in part a self-regulatory scheme. It is proposed that legislation will enable, but not compel, banks and building societies to transfer funds held in dormant accounts. Banks and building societies have committed to work with the Government to design, and participate in, the UK scheme.

Just under half of the consultees endorsed the fourth principle, but many others believed the scheme should be mandatory for affected financial institutions. Those that disagreed with the principle were unclear what incentives banks and building societies would have to join the scheme or to identify unclaimed assets. It was argued that this could prevent consumers from accessing all the unclaimed assets owed to them. It was also suggested that self-regulation in this context would conflict with two of the Better Regulation Task Force's Principles of Good Regulation, accountability and consistency. A few respondents emphasised that the scheme should be transparent whether or not institutions participated on a voluntary basis.

Government Response

2.11 The Government welcomes the unanimous support given to principles one and two. On principle three, the Government believes a light touch approach, that takes into account better regulation principles and builds on existing regulatory arrangements to protect account holders reclaiming their money while minimising the regulatory burden for business is the best way to maximise the money available for reinvestment in the community.

The need for transparency

2.12 The Government agrees that transparency is very important. Transparency is important to maintain confidence in the scheme and to help promote its accountability and consistency. Provision is made in legislation for a reclaim fund to publish information about which banks and building societies are participating in the scheme; the value of the assets each institution has transferred to the scheme, the value of assets each institution has reunited with account holders and the total amount transferred to the Big Lottery Fund (BIG). BIG will be accountable for surplus assets transferred from the reclaim fund for distribution. Smaller financial institutions distributing money in their local communities will be required to disclose which charities they give money.

Incentives for institutions

2.13 The proposed legislation will provide financial institutions with a legal release from the liability to repay dormant account holders. Without this release, a clear disincentive to voluntary participation would apply. This will be a benefit to institutions that have been unable to re-establish a customer relationship with such account holders and will encourage them to join the scheme. In addition, the amount of assets banks and building societies hold in dormant accounts meeting the 15 year definition is very low compared to the assets held by these financial institutions in total. The Government is reliant on estimates from the banking and building society sector in this regard. The British Bankers' Association (BBA) advises that unclaimed assets within bank accounts currently amount to £250 million to £350 million. This is in contrast to the £535 billion of retail banking and savings balances held by the nine major banking groups. The Building Societies Association (BSA) believes that unclaimed assets held within building society accounts could amount to up to £150 million. Releasing the comparatively very small amounts held in dormant accounts should not, therefore, act as a financial disincentive for institutions not to participate in the scheme and could provide much benefit to the community.

A voluntary scheme

2.14 In response to the points raised by some consultees on principle four, the Government does not agree that the scheme should compel banks and building societies to take part in the scheme. The bank and building society sector has publicly committed to taking part in the scheme. There are clear advantages in a voluntary approach. A voluntary approach enables the use of the private sector expertise to manage and invest the money paid into a reclaim fund by banks and building societies. A voluntary scheme brings added flexibility. It will allow individual institutions to determine whether an account is genuinely dormant. As a result the UK scheme will be less rigid than other many other international schemes, helping to reduce unnecessary administrative burdens.

QUESTION 2

What other cost-effective steps could be taken to reunite customers with their assets?

2.15 Banks and building societies already have procedures for contacting account holders in advance of making accounts dormant. Account holders may also have recourse to the separate tracing schemes run by the BBA, BSA and National Savings and Investments (NS&I). These are designed to help consumers find their accounts where they have lost track of them. In addition, prior to the launch of the unclaimed assets scheme the BBA, BSA and NS&I will launch a pre-scheme publicity campaign designed to encourage more consumers to be aware of their accounts.

Steps to aid reuniting

2.16 Some respondents, primarily financial institutions, were content with the proposed activities and thought these proportionate to the value held in most dormant accounts. However, around 90 per cent of respondents thought additional activities should supplement this approach. Most of these respondents were charities arguing for a central register, but other consultees also thought additional activities necessary. The suggested activities were:

- **consumers searching for dormant accounts:** it was argued that a single portal could assist those looking for dormant accounts and other assets. This could exist as a searchable online register or as an intermediary between consumers and financial institutions; which consumers could contact in writing, by phone or via email;
- **financial institutions undertaking proactive reuniting in early stages of dormancy:** many consultees believed that financial institutions could do more to contact consumers in the early years of dormancy as this is when such attempts would most likely be successful. Some respondents thought that banks should write to account holders where returned mail has not been received, particularly if the account balance is over a certain amount;
- **hard to reach consumers:** a key issue for several respondents was that all consumers should be able to claim their money with the minimum of barriers. A variety of ideas were put forward to assist this: information literature displayed in care homes and libraries, posters in the branches of financial institutions, and that banks and building societies undertake research to ascertain how accessible consumers find the current BBA and BSA tracing system;.
- **identification of deceased estates:** several consultees highlighted that executors often work with minimal information, which leads to accounts belonging to the deceased not being identified. To mitigate this it was suggested that financial institutions check the Registry of Deaths and if the account holder is deceased that institutions inform the person who registered the death.

Government Response

Proposed reuniting activities

2.17 Successful reuniting is a priority for the Government and the additional steps that could be taken to reunite consumers with their dormant accounts are noted. The Government has written to the BBA, BSA and NS&I to encourage them to work together to consider how reuniting arrangements could be simplified and made more accessible,

including the merits of a single customer interface. In particular, we welcome the bank and building society sector's activities prior to the launch of the proposed scheme including efforts to establish a single web portal that would group the separate tracing systems run by the BBA, BSA and NS&I.

2.18 NS&I ran a publicity campaign on its dormant accounts in the summer of 2007. This was in addition to its usual advertisements in April and November encouraging consumers to be more aware of their NS&I accounts.

QUESTION 3

Is the proposed level of publicity the most cost-effective approach?

Effective publicity

2.19 Most respondents agreed the proposed level of publicity would be a low cost way of providing information and generating interest. However, over half provided suggestions as to how publicity could be made more effective, including the following:

- **a higher publicity level:** some respondents thought that a higher level of publicity would be necessary to promote greater consumer awareness and skill levels. They argued that consumers may have a low awareness of financial institutions' reunification procedures as information in branches and on financial institutions websites can be hard to find. This could be rectified by a higher profile in bank and building society branches. Several respondents also thought that NS&I, as well as banks and building societies, should take part in the publicity campaign;
- **a consistent message:** several stakeholders stressed the need for publicity to be clear and consistent. If not, some consumers might turn to companies that charge to claim back money. One respondent believed that some press or radio advertising would seem essential to deliver this. Several respondents agreed that publicity should continue after the scheme became operational and it was suggested that financial institutions undertake proactive tracing work prior to publicity to reduce the administration costs of processing claims; and
- **targeting particular groups:** some respondents also thought that publicity should be targeted at particular groups particularly those that are generally hard to reach through traditional banking literature, but also individuals thinking about maximising money for retirement.

Government Response

Proposed publicity

2.20 The Government is encouraged by the responses and has written to the BBA, BSA and NS&I to bring these suggestions to their attention. We recognise that the scheme's publicity should leave consumers clear on how they can best claim their dormant accounts and agree that reuniting consumers with their money is of key importance - this is one of the principles underpinning the proposed scheme. The Government welcomes the efforts of the bank and building society sector, with NS&I, to consider how reuniting arrangements can be better publicised in the run up to legislation and after the scheme is in place.

QUESTION 4

Do you agree that customers continuing to deal with their banks directly, and banks continuing to manage account information, is the simplest and most effective approach?

Reclaiming dormant accounts 2.21 Half of respondents agreed that consumers should reclaim their dormant accounts through their financial institution. Others thought that one central point of contact would be more effective, citing these reasons:

- **identifying the financial institution holding a dormant account:** some respondents highlighted that some consumers and executors of deceased estates cannot deal directly with a bank or building society as not all would know which financial institution might hold the account. It was felt that these claimants might find existing tracing schemes unhelpful, as they do not encourage blanket claims; and
- **dealing with account holders once they have located their account:** some respondents believed this would allow economies of scale to reduce overall scheme costs and release more money for the community. In addition, a few financial institutions thought that the scheme's reclaim fund should deal with consumers making a claim as this would be more cost effective for financial institutions. They also argued that if financial institutions were required to continue the customer relationship that a reclaim fund should reimburse institutions for this service.

Continuation of existing consumer relationships 2.22 The Government welcomes the support for the proposed approach that banks and building societies maintain the customer relationship on dormant accounts. The proposed scheme is not intended to change the way account holders interact with financial institutions. A continuation of the relationship with banks and building societies is the most straightforward method for consumers to reclaim their money. The revised Banking Code, as for other account holders, will regulate this relationship and we welcome the bank and building society sector's commitment to reflect the scheme in the Code.

QUESTION 5

Paragraphs 3.22-3.26 set out how customers will be notified of the changes involved under the scheme. Do you agree that this is the best means to notify customers?

2.23 The intention is that the bank and building society sector will notify customers generally of the introduction of the scheme and its implications for them. For active account holders notification will be included as part of existing correspondence. The consultation document discussed whether account holders should be individually notified before their accounts are deemed an unclaimed asset and transferred to the scheme. Banks and building societies consider notification to the last known address after 15 years inactivity is unlikely to be an effective way of notifying consumers. It would also carry a risk in terms of fraud and identity theft and be administratively burdensome.

Fraud and ID theft 2.24 Just over half of respondents agreed with these proposals, particularly in the context of potential problems with fraud and ID theft.

Notifying affected account holders **2.25** Other respondents thought that there was a strong case for notifying individual affected account holders by mail where a financial institution had not received returned mail from the address held, particularly where an account balance was more than £49. There was also agreement that written notification would be useful for legal heirs and executors to identify property belonging to deceased individuals.

2.26 Of the respondents in favour of notification not all believed that this would be effective for account holders that already appeared to be dormant. It was suggested that where financial institutions are not sure of an account holder's address they should use other proactive methods, such as using a tracing agent, to identify it.

Government Response

Banking Code **2.27** The Government notes the support given to these proposals and the suggestions for banks and building societies in notifying hard to contact account holders. We have notified the BBA, BSA and NS&I of these comments. The revised Banking Code, due to be published in March 2008, will include how banks and building societies should notify holders of dormant accounts. We agree this is an important issue for consumers and welcome the banks and building societies' intention to publish their policies on how the scheme might affect account holders.

QUESTION 6

The scheme aims to protect the consumer – are the proposed protections appropriate and sufficient?

2.28 The proposed scheme includes a number of measures to protect consumers. These include:

- pro-active attempts by banks and building societies to reunite account holders with their money before the scheme is launched;
- the account holder's ongoing legal right to repayment by the central reclaim fund after the scheme is launched;
- updated provisions in the Banking Code setting out how customers should be treated;
- right of access to the Financial Ombudsman Service for the resolution of disputes; and
- liability for reclaim transferred to a reclaim fund authorised by the Financial Services Authority.

Additional steps to protect consumers **2.29** Half of respondents reacted positively to the proposed protections. There was wider agreement on the proposed role for the Financial Ombudsman Service and that the reclaim process should be without cost to the consumer. However, some responses to this question highlighted potential concerns:

- **the need for inclusiveness:** several consultees stated that processes for reclaiming money need to be inclusive. They highlighted that some disadvantaged and vulnerable account holders lack standard ID, others are digitally excluded, unconfident with forms or dislike going into banks or building societies. It was thought that financial institutions could help these

claimants access their money by considering the use of less obtrusive electronic verification processes that have been accepted by the Joint Money Laundering Committee; and

- **bank charges on dormant accounts:** some respondents believed that unreasonable charges should not be recovered from dormant accounts. It was suggested that the Banking Code could address these points by prohibiting new or unreasonable charges being made to dormant account holders given they cannot be notified of the charges. However, a few respondents thought that self-regulation would be insufficient to protect consumers.

2.30 In addition, one consumer organisation thought that a reclaim fund's board should include consumer representation and that any complaints procedures for the scheme, including those affecting a reclaim fund, should be clearly communicated to consumers.

Government Response

2.31 The Government is encouraged by the positive response to the scheme's consumer protection proposals and notes how these could be further supported. The BBA, BSA and NS&I have been notified of these suggestions.

Money Laundering Steering Group Guidance

2.32 It is important that consumers that have had their accounts transferred to the scheme are able to reclaim their money once their identity has been verified. The Joint Money Laundering Steering Group Guidance recognises that financial institutions' procedures should not preclude customers from accessing financial services because they do not possess evidence of their identity, in circumstances where they cannot reasonably be expected to do. Banks and building societies, in addition to other financial services providers, are not required to demand evidence in the form of passports or photo-driving licences. Financial institutions may ask for these documents if they are available, as they are helpful evidence from an official source. But when a person cannot reasonably meet the standard identity requirements, institutions have the flexibility to accept other evidence, such as a letter from an appropriate person who knows the individual that indicates that the person is who they say they are.

Bank charges 2.33 The Office of Fair Trading is currently undertaking a market study into personal current accounts. This is due to report by the end of 2007. The outcomes of the study may affect how accounts attract bank charges.

Banking Code 2.34 More widely, the scheme will be reflected in the updated Banking Code. An independent review of the Banking Code is currently underway. The Government has actively engaged in the review, and has underlined the importance of revising the Banking Code to take account of the unclaimed assets scheme. It welcomes the commitment of the industry to updating the Code to reflect the proposed scheme. Under the revised Code, it is expected that the key commitments on unclaimed assets will include that: customers will continue to use their own bank or building society as the means to reclaim money; all customers will be treated equivalently whether or not their money has been transferred into the scheme; and banks and building societies will inform their customers about the scheme, including publishing their policies for treating accounts as dormant. The existing ten core pledges under which the banks and building societies operate will also be built into the Code. These changes are designed to ensure that banks and building societies will take care to explain the scheme to their customers, and treat dormant account holders fairly, equivalent to any other customer.

2.35 The updated provisions in the Banking Code are only one element of the framework proposed by the Government. This also includes legislation to establish a statutory right for consumers to reclaim their money from a reclaim fund at any time. Financial Services Authority (FSA¹) authorisation of a reclaim fund, which will only be granted where a fund demonstrates compliance with the relevant regulatory requirements, will bring claims against a reclaim fund within the Financial Services Compensation Scheme (FSCS); and consumers' right of access to the Financial Ombudsman Service (FOS) in the event of disputes.

2.36 The Banking Code Standards Board (BCSB) enforces the Banking Code and the Business Banking Code. It has powers to ensure compliance through compliance visits, mystery shopping and formal investigations. Ultimately, the BCSB has powers to issue public directions, recommend compensation for customers, and cancel a bank's registration with the Codes.

2.37 If in the future it is evident that the provisions of the Banking Code and the agency agreements² are not working, and customers are not being treated equivalently to those whose accounts are not transferred into the scheme, the FSA impose specific consumer protection requirements on the reclaim fund or the banks, to lend further support to the Banking Code and agency agreement provisions, without further primary legislation. Clearly this is a judgement that the FSA would need to make in the light of careful consideration of market failure analysis, taking into account its commitments to risk based regulation and better regulation principles. The FSA would consult fully on any specific proposals.

2.38 Participating banks and building societies will make clear to customers that they are acting as agents of the reclaim fund in the handling of reclaim, including any disputes. The Banking Code will require banks to disclose their agency role to their customers. Customers under the scheme will also have recourse to the FOS for the resolution of disputes with their bank or building society.

QUESTION 7

Do you have any other comments on the suggested operating structure, taking into account the principles set out in paragraph 1.5?

2.39 Under the proposed scheme if a bank or building society has been unsuccessful in reuniting an account holder with their dormant account, after 15 years dormancy the financial institution will be able to transfer equivalent assets to a reclaim fund. Affected account holders will have the legal right to claim their money back. The reclaim fund will have a legal obligation to repay the consumer and the bank or building society's existing liability will be extinguished.

Comments on structure

2.40 A few consultees stated they had no comments on the proposals, but over half that responded had points to make:

¹ The FSA is given statutory powers by the Financial Services and Markets Act 2000 to achieve the objectives of maintaining market confidence, promoting public awareness of the financial system, securing the appropriate degree of protection and reducing financial crime.

² It is envisaged that a reclaim fund will establish agency agreements with participating banks and building societies. See paragraph 2.46 for more detail on agency agreements.

- **financial institutions and a reclaim fund:** a few financial institutions were concerned about costs to financial institutions. It was argued these could be mitigated by the agency agreement between institutions and a reclaim fund being a standardised document. This would reduce the burden for smaller institutions and reduce the scheme's running costs. It was also suggested that financial institutions should only pay accrued interest on account balances paid to a reclaim fund and not on amounts transferred to charitable organisations as proposed in the consultation document. Another respondent did not think the contractual liability between a financial institution and customer should be extinguished. Instead the bank should transfer the money to the reclaim fund with a right to claim it back if the customer reclaims;
- **governance of the scheme:** several respondents remarked on the need for the scheme to be independently regulated. The regulator should be able to require financial institutions to undertake an external audit of compliance and also be able to fine non-compliant firms.

Government Response

2.41 The Government notes the issues highlighted with regard to the scheme's operating structure.

Maximising money for reclaim and distribution

2.42 The first set of issues raised by respondents concern the relationship between financial institutions and the reclaim fund. After meeting reclaims applications, it is important that the scheme maximises assets for distribution. A reclaim fund should look for appropriate ways to do this in line with its statutory objects.

Repaying account holders

2.43 An additional point that was made concerned the extinguishment of a financial institution's liability to repay affected account holders. Given the nature of dormant accounts it is not possible for the financial institutions to pay amounts back to dormant account holders or to obtain legal release as the account holders cannot be contacted. Therefore, if certain conditions are met, it is proposed that banks and building societies will be able to extinguish their liabilities to dormant account holders where an equivalent amount owing to the account holder is transferred to a reclaim fund. A reclaim fund will have the liability to repay account holders; with participating banks and building societies will acting as agents of the reclaim fund.

Regulation of scheme

2.44 The second group of issues raised by consultees concerned the scheme's governance. The scheme will be regulated. It will take account of better regulation principles, being in part a self-regulatory scheme. This will help to minimise costs and maximise money available for reinvestment in the community. In part, the scheme will be self-regulated through the Banking Code, so that consumers will be treated equivalently whether or not their money has been transferred to the scheme.

2.45 In addition, participating banks and building societies will only be able to extinguish their liabilities by transferring money to a reclaim fund that has qualified for authorisation by the FSA. The Government is working constructively with the FSA in order to ensure that, subject to it meeting the relevant regulatory requirements, a reclaim fund is able to apply for FSA authorisation. We recognise that the scheme needs to be transparent, and provision is made in legislation for a reclaim fund to publish information to help promote the scheme's accountability and consistency.

2.46 One of the conditions for treating liability to a customer as extinguished on transfer of money will be that a reclaim fund consents to the transfer. This will mean that a reclaim fund is able to set the terms on which transfer is made. The Government expects these terms to be reflected in practice in agency agreements between a reclaim fund and each bank and building society. It is envisaged that the agency agreements will commit banks and building societies to:

- retaining customer records to enable searches by the bank or building society;
- undertaking external audits of transfers to a reclaim fund;
- dealing with complaints;
- calculating the amount due to successful claimants, including accrued interest;
- meeting statutory reporting requirements; and
- providing management information/reclaim data to a reclaim fund.

2.47 The Government will not regulate the contents of private sector agreements between a reclaim fund and banks and building societies. However, the Government believes that the incentives in legislation will be sufficient to ensure that a prudent reclaim fund will only conclude agency agreements that set out in detail the process for dealing with any breaches, and also require external audits of transfers of funds to the scheme. The Government is working constructively with the banking and building society sector on the detail of the agency agreements.

QUESTION 8

Does a minimum requirement of no customer-initiated transactions best identify unclaimed assets?

2.48 It is proposed to define accounts included in the scheme as those current and deposit accounts where there has been no customer-initiated activity for at least 15 years. It is proposed that legislation will define such activity as by reference to transactions made by or on the instructions of the customer on the account. Banks and building societies may choose in addition to have regard to other forms of customer activity as indicators of whether an account is truly dormant. This could include correspondence, telephone calls, emails, voting at a building society's annual general meeting and customer-initiated activity on other accounts, solely or jointly in the account holder's name.

2.49 The majority of respondents endorsed this approach.

Flexibility of financial institutions to define unclaimed assets

2.50 Those that had concerns focussed on the flexibility institutions would have in determining whether an account meets the definition of an unclaimed asset. One financial institution suggested that 'no customer-initiated transactions' should be defined within the scheme to ensure consistency across all financial institutions; another institution thought that the definition should only apply to accounts above £100. One consumer organisation stated that financial institutions should not have such flexibility and that the definition of an unclaimed asset should rest on a lack of customer-initiated transactions only.

2.51 A few respondents thought that the definition should only apply to accounts where the financial institution has tried and failed to contact the account holder.

Government Response

Cost effectiveness **2.52** The Government welcomes the positive comments provided by respondents on the proposed definition of an unclaimed asset. The intention of a flexible definition is to capture accounts that are truly dormant, rather than those that are rarely used. The intention is to avoid the unnecessary transfer to the scheme of accounts that are not genuinely dormant. Sometimes a lack of customer transactions is not a good indication of dormancy. Individual financial institutions will have the flexibility to identify a range of consumer activities before deciding whether an account meets the definition of an unclaimed asset. This flexibility will provide for a more sophisticated approach, reducing the number of reclaim applications and help make the scheme more cost effective.

Contacting dormant account holders **2.53** The intention is that the bank and building society sector will notify customers generally of the introduction of the scheme and its implications for them. Other than that banks and building societies already have systems in place to deal with inactive accounts. When an account has been inactive for an extended period of time the account holding institution will write to the customer seeking to re-establish contact. If no response is received the financial institution will cease sending out correspondence to the contact address and the account will be deemed 'dormant'.

QUESTION 9

Does the definition of banks and building societies adequately cover the institutions participating in the scheme? Do you agree that banks and building societies that do not subscribe to the Banking Code should be permitted to participate in the scheme?

2.54 Most respondents thought the definition sufficient in relation to banks and building societies. There was also consensus that banks and building societies that do not subscribe to the Banking Code should be permitted to participate in the scheme.

Government Response

Bank and building society accounts **2.55** The Government welcomes this response. The intention is for the proposed scheme to apply to bank and building society accounts only and we have been working with the bank and building society sector to develop a scheme on that basis. We agree that institutions that do not subscribe to the Banking Code should be able to join the scheme as long as they act in line with the Code's provisions.

QUESTION 10

Do you agree that banks and building societies should be permitted to disclose confidential information about an account to the reclaim fund for the purposes of establishing whether the fund is obliged to repay a customer and discharging that obligation?

2.56 The respondents who answered this question believed that financial institutions should be permitted to disclose confidential information to the reclaim fund in particular circumstances.

Government Response

Sharing information **2.57** We welcome this pragmatic response. The proposed legislation will allow banks and building societies to provide a reclaim fund with sufficient information to carry out its functions. This may include confidential information in relation to customer reclaim applications.

QUESTION 11

What level of assets best captures small locally-based institutions?

2.58 Of the consultees who responded to this question the majority thought that £7bn best identifies small locally-based institutions. One respondent stated the level should not exceed £7bn while another did not believe any financial institution should be exempt from the main scheme. In addition, a few financial institutions believed that all building societies (not just those eligible for the small locally-based option) should be able to decide the spending priorities of assets distributed in the community.

Government Response

£7 billion asset level **2.59** We agree that £7bn best identifies small locally-based institutions. This will give the vast majority of building societies the flexibility to distribute unclaimed assets themselves to the benefit of their local communities. The Government considers participation through the main scheme more appropriate for larger financial institutions given their wider outlook.

QUESTION 12

Will the proposals for the operation of the small locally-based scheme enable these institutions to meet the agreed spending priorities in the local community effectively?

Transferring money to a reclaim fund **2.60** The consultation document referred to two ways affected institutions might take part in the scheme; either by transferring money to meet reclaim applications to a reclaim fund or by institutions keeping this money and the reclaim risk on their own balance sheets. There was a consensus among respondents that the proposals would work more effectively if institutions transferred money for reclaim to a reclaim fund. Beyond this point around half of the consultees who answered this question agreed that the proposals would enable small locally-based institutions to meet the agreed spending priorities effectively.

Need for transparency **2.61** Other respondents were more cautious. There was concern about how these financial institutions would distribute assets alongside their profit making activities. In particular, it was felt that there was a need for transparency in the processes to decide funding recipients and for funding to meet actual rather than perceived need.

Impact on scheme's running costs **2.62** A mix of views were also provided on the perceived benefits and costs of the small locally-based option. Local distribution could benefit local communities but the option could also add to the overall scheme's running costs.

Government Response

2.63 The Government believes that smaller financial institutions should be able to use unclaimed assets to benefit their local communities. We recognise the clear preference for institutions to transfer money to meet reclaim applications to a reclaim fund, rather than keep them on their own balance sheet.

Disclosure requirements

2.64 We also concur that decisions regarding local distribution should be transparent. For this reason, affected institutions will be required to disclose which charities receive they distribute unclaimed assets to, and how much.

QUESTION 13

Do you agree that the proposals will allow existing procedures for some types of dormant accounts to operate concurrently with an unclaimed assets scheme?

2.65 All respondents who replied to this question thought that existing procedures affecting dormant charity accounts, dormant accounts belonging to those in insolvency proceedings and accounts that could be claimed by the Crown as bona vacantia could work concurrently with the proposed scheme. However, a few respondents felt there was a need for existing procedures to be more clearly defined and for the Government to clarify that insolvency office holders could claim money belonging to insolvents if it had been transferred to a reclaim fund.

Government Response

Working concurrently with existing procedures

2.66 The Government is clear that the proposed scheme should operate in conjunction with existing procedures and it is expected that financial institutions will exclude affected accounts from the scheme. If these accounts are transferred to the scheme in error, claimants will have the right to claim accounts after transfer.

OTHER ISSUES RAISED IN CONSULTATION

Scope of assets affected by the scheme

2.67 Most issues raised during consultation fell into one of the 13 questions set out in the consultation document. The main issue raised not covered by the consultation document was the belief that the proposed unclaimed assets scheme should include a wider scope of assets.

2.68 Around 60 per cent of respondents, mostly made up of 30 third sector organisations but also a few financial institutions, believed that the scheme should include other assets in addition to bank and building society accounts. It was suggested that the scheme include NS&I accounts, life assurance policies, unclaimed shares and dividends in addition to the contents of safety deposit boxes.

2.69 As set out in the 2005 Pre-Budget Report and subsequent announcements, the unclaimed assets scheme's scope is defined according to a clear Government Manifesto commitment and is restricted to retail bank and building society accounts. Introducing a scheme on this basis for the first time in the UK is an ambitious task and the Government does not propose to widen the scope of the scheme. The Government's aim is to enable a successful unclaimed assets scheme on this basis that is effective, proportionate and fair.

National Savings and Investments

2.70 The Government has considered the case for NS&I's inclusion in the unclaimed asset scheme in detail. The Government position remains that the unclaimed assets held in NS&I accounts should not be included in the scheme.

2.71 Unclaimed assets in banks and building society accounts are held on the balance sheets of these institutions. The proposed scheme will change this by using the assets to benefit the wider community. By contrast, NS&I does not hold any of the money invested in its products on its own balance sheet. Instead, the monies are passed directly to the Exchequer where they are used to fund public services. This means that money in NS&I accounts is already benefiting the community.

2.72 As NS&I's unclaimed assets are used for public spending, including NS&I's unclaimed assets within the scheme would require the Government to fill the gap that would be created by the transfer of assets to the scheme either by raising further funds to meet its public spending commitments or by cutting existing expenditure plans. Both alternatives would have an adverse effect on the taxpayer. NS&I, as part of Government, is therefore different from banks and building societies in such a way that would make it inappropriate to apply the principles of the scheme to unclaimed assets held in its accounts.

2.73 NS&I is, however, taking the lead along with the BBA and BSA in the part of the scheme aiming to reunite customers with lost assets. The existing asset reuniting arrangements run by NS&I have had some success. NS&I is playing a leading role in reuniting customers with their assets, and launched a press, internet and radio advertising campaign to promote its free of charge Tracing Service on 28 July 2007. To date the NS&I Tracing Service has reunited over 47,000 customers with assets totalling approximately £47million. Alongside the BBA and BSA, NS&I is developing proposals on how reclaim schemes can be better co-ordinated including considering the proposal for a single customer interface.

PARTIAL REGULATORY IMPACT ASSESSMENT

What are the set up, compliance and overall costs of these proposals? In particular:

- costs for financial institutions to identify and notify account holders
- costs for financial institutions to manage reclaim and reunification, acting as agents of the reclaim fund; and
- costs for financial institutions of the audit of the transfer of money to and from the reclaim fund.

2.74 Around 10 respondents replied to these questions, around half were from financial institutions. Consultees primarily discussed the qualitative costs of the different options put forward in the Partial Regulatory Impact Assessment. These replies have been considered as part of the impact assessment published in conjunction with the Dormant Bank and Building Society Accounts Bill.

3

UNCLAIMED ASSETS DISTRIBUTION MECHANISM

Principles for distribution

3.1 The consultation on the unclaimed assets distribution mechanism¹ outlined proposals for the effective distribution of the available assets for the benefit of communities across the UK. One of a number of issues the Government invited responses on were the **principles underpinning the distribution of available assets**. These were:

- distribution to be managed on a devolved basis, with distribution in **England to focus on youth services that are responsive to the needs of young people**, followed by **financial capability** and **inclusion**. Resources permitting, the Government would also like to see a proportion of assets used to **boost social investment and develop the long-term sustainability of the third sector**. The devolved administrations of Scotland, Wales and Northern Ireland will determine their own priorities for distribution, which may differ from those of England;
- a **fair distribution of assets across all four countries of the United Kingdom**;
- spending to be **additional to Government provision**, in a manner that **takes account of the role of the third sector in the delivery of spending priorities**;
- a distribution process that is fully **accountable and transparent**;
- the available resources, in England, used to deliver **practical projects in local communities**;
- distribution to be managed **efficiently**, with as little resource as possible being spent on administration and running costs; and
- distribution in England to focus on a **diverse range of communities** across the country.

Focus of the consultation

3.2 The consultation also sought views on the **need for a specialist social investment wholesale institution** to develop sustainable investment streams for the third sector, drawing on the proposals put forward by the Commission on Unclaimed Assets, and **the kinds of activities a wholesaler might focus on**.

3.3 The document consulted on the **proposal to use the Big Lottery Fund (BIG) as the primary UK-wide distribution vehicle** and the **approaches that BIG should take to ensure that the distribution of the available assets delivers maximum benefit to communities**. Finally, views were invited on the proposals for **how legislation will work in relation to the distribution of the available assets**. A full list of consultation questions is set out in **Box 3.1**.

¹ *Unclaimed assets distribution mechanism: a consultation*, HM Treasury, Office of the Third Sector, May 2007

Box 3.1: List of questions for consultation

- Are the principles underpinning the distribution of the available surplus assets the right ones?
- Where is the greatest need for finance and funding for third sector organisations that is not currently being met in the market?
- Is there a need for a specialist social investment wholesale institution?
- Is this the best means of increasing the investment available to sustainable third sector organisations?
- If so, what kind of activities should the wholesaler focus on?
- Is the proposal to use the Big Lottery Fund as the primary UK-wide distribution vehicle for the available surplus assets the right one, based on the principles for distribution outlined in this document?
- What are the different approaches that the Big Lottery Fund could take to the distribution of the available assets to ensure they deliver maximum benefit to communities? How should BIG best work with other intermediaries and delivery partners to ensure the best outcomes?
- Do you agree with the proposals for how legislation will work in relation to the distribution of these assets?

Responses received **3.4** A total of 167 written responses were received, with views representing the diversity of the third sector across the UK, from local, regional and national organisations with a broad range of interests, to third sector umbrella organisations and capacity building and infrastructure organisations.

A diverse range of responses **3.5** In total, 26 per cent of responses came from organisations that currently lend to or invest in third sector organisations (i.e. Community Development Finance Institutions). These responses were generally in favour of using a proportion of the assets to develop and diversify the social investment market and establish a social investment wholesaler.

3.6 Around 30 per cent of responses were received from organisations based in Scotland, Wales and Northern Ireland, 18 per cent were from youth focussed third sector organisations and 11 per cent were from social enterprises.

Broad support for the Government's proposals **3.7** The majority of respondents were broadly in favour of the principles underpinning the distribution of unclaimed assets and most stressed the importance of a distribution process that was fully accountable and transparent. Respondents provided helpful suggestions on how the distribution of assets should work in practice and the kind of investment and funding that would best advantage communities and the organisations that work for them.

ANALYSIS OF RESPONSES

QUESTION 1

Are the principles underpinning the distribution of the available surplus assets the right ones?

Support for the principles of the scheme

3.8 The majority of respondents (63 per cent) felt that the principles underpinning the distribution of assets were the right ones. 11 per cent felt that social investment ought to have the same weighting as the other two stated priorities for distribution in England: youth services that are responsive to the needs of young people and financial capability and inclusion.

Devolved administrations

3.9 Around 30 per cent of responses came from organisations and individuals outside England. Although many of these responses agreed with the importance of the stated priorities for distribution in England, many expressed their support for **separate consultations** to be held within Scotland, Wales and Northern Ireland to determine priorities for distribution.

Government response

Principles for distribution

3.10 The Government welcomes the overall support for the principles for distribution set out in the consultation document and will continue to develop the scheme on the basis of these principles.

Priorities for spending in England

3.11 The Government has been clear, since it was announced in the 2005 Pre-Budget Report², that it had been working with the bank and building society sector to develop an unclaimed assets scheme and that spending in England would be focused on **youth services that are responsive to the needs of young people and financial capability and inclusion**. This position has been reiterated in a number of Budget Reports and Pre-Budget Reports since the initial announcement. The distribution consultation document set out the reasoning for why the Government believes that focussing these resources on developing high-quality youth services and increasing financial capability and inclusion across the population represents a worthwhile investment, both now and for the future.

Distribution based on evidence of need

3.12 At the 2006 Budget, the Government announced that a review of the provision of positive activities for young people would form part of the **Children and Young People's Review** (announced in December 2005). Part of the Review's remit was to inform Government spending and to identify priorities for the use of unclaimed assets. The Review consulted widely with a variety of stakeholders, including young people themselves and third sector organisations. The outcomes of the Review were published in July this year, in the form of a **ten-year strategy for youth services**³, which set out proposals for focussing the available assets in England on developing high-quality youth facilities to benefit young people and their communities.

² Pre-Budget Report, *Britain meeting the global challenge: Enterprise, fairness and responsibility*, HM Treasury, December 2005

³ *Aiming high for young people: a ten year strategy for positive activities*, HM Treasury, Department for Children, Schools and Families, July 2007

3.13 The Government would like to see a proportion of the available assets in England used to develop financial capability and increase financial inclusion across the population. The Government's **long-term strategies on financial capability⁴ and inclusion⁵** will be used as key sources of evidence to inform spending in these areas.

Weighting of priorities

3.14 Since the initial announcement on spending priorities in 2005, the independent Commission on Unclaimed Assets has published its final report⁶ which sets out proposals for boosting the social investment market through the creation of a Social Investment Bank, and the Government has reported on the outcomes of its wide ranging review into the future of the third sector⁷. As a result of these two initiatives, and in light of views expressed by other commentators, the Government has added a third spending strand in addition to the primary priorities for investment which will continue to be youth services and financial capability and inclusion. Resources permitting, the Government would like to see a proportion of the available assets used to invest in the **long-term sustainability of the third sector and boost the social investment market**. This is covered in more detail in the Government response to **Question 3**.

Spending in the devolved administrations

3.15 As set out in the consultation document, spending on youth services, financial capability and inclusion and, resources permitting, developing the social investment market, represent the priorities for the spending of the available surplus assets in England. The Government has designed the scheme to reflect its commitment to devolution, with **spending in the devolved administrations of Scotland, Wales and Northern Ireland fully devolved to allow the individual administrations to determine the priorities for spending in their own countries** through separate consultations. These priorities may differ from those announced for England.

QUESTION 2

Where is the greatest need for finance and funding for third sector organisations that is currently not being met in the market?

Endowments

3.16 A range of suggestions were put forward in answer to this question. A number of organisations proposed the creation of **local, community or youth endowments**, to increase the capacity of community organisations by providing them with a sustainable and growing funding base.

Developing infrastructure

3.17 Other organisations focused on the need to develop **infrastructure** through increased funding to infrastructure organisations within communities, such as Community Voluntary Services (CVS). One organisation suggested that a focus on developing **capital assets**, such as premises particularly for consortiums of smaller organisations within the community, would improve infrastructure through facilitating income generation and skills development.

⁴ *Financial Capability: the Government's long-term approach*, HM Treasury, January 2007

⁵ *Financial Inclusion: the way forward*, HM Treasury, March 2007

⁶ *The Social Investment Bank: its organisation and role in driving development of the third sector*, the Commission on Unclaimed Assets, March 2007

⁷ *The future role of the third sector in social and economic regeneration: final report*, HM Treasury, Cabinet Office, July 2007

Diverse sources of finance **3.18** In terms of the kind of finance and investment which is required, greater access to **equity** and **quasi-equity** was called for in relation to **supporting social enterprise** and providing security for **affordable lending** to low-income communities. **Loan finance** was also referred to as a way of encouraging the start up and sustainability of social enterprise as well as voluntary and community sector organisations more generally.

Grants remain important **3.19** A number of organisations stressed that access to **grant funding continues to be imperative** for most third sector organisations, particularly small community groups. In particular, capacity building grants were championed as important for organisations to become more sustainable and attract other forms of investment in the future.

Government response

3.20 The Government welcomes the **variety** of responses to this question, and will continue to bear the issues raised in mind as the scheme develops.

The Government has noted the importance placed on developing diverse sources of funding for the third sector, such as debt finance, quasi-equity and equity, and that grants remain crucial for many organisations. The Government maintains that, resources permitting, to reflect the Government’s increasing recognition of this gap in the market, we would like to see an appropriate proportion of the available assets in England used to develop the social investment market and invested in the long-term sustainability of the third sector. The responses to the consultation will be used to inform decision making in this area.

QUESTION 3

Is there a need for a specialist social investment wholesale institution?

Support for a social investment ‘wholesaler’ **3.21** Around 60 percent of the total responses received provided a clear answer to this question. Of those that provided an answer, around 80 per cent were in favour of the creation of a social investment wholesale institution to enable third sector organisations to gain access to more diverse sources of funding and become more sustainable. Almost two thirds of those in favour of the creation of a wholesaler were from specialist finance bodies that currently lend to or invest in third sector organisations (such as Community Development Financial Institutions) and social enterprises.

Independence and fairness **3.22** The majority of those in favour of the creation of a wholesale institution stressed that it must be independent and should not be given any unfair advantage within the market that it could then use to compete directly with existing social investors. As such, most suggested that a wholesale institution should focus on providing wholesale capital to existing investment intermediaries, including CDFIs, credit unions and others, who would then on lend to third sector organisations and thereby increase the scale and coverage of their investment in communities. A handful of respondents suggested that this investment should extend to support for micro and small businesses within disadvantaged communities.

Building demand as well as supply **3.23** A number of respondents felt that a wholesale institution should be given adequate resource to ensure that it was a viable investment mechanism. A significant proportion of those in favour of a wholesale institution felt that it should also work to increase the demand for as well as increase the supply of social investment through

providing business support and advice to start ups and developing a central source of up to date market information.

Potential risks 3.24 A number of respondents identified some of the risks that they felt would be associated with the setting up of such an institution including the potential for a wholesaler to distort or flood the social investment market through over financing retailers and/or resort to favouring low-risk, high return investments in order to sustain itself. They felt that if this were to occur, the purpose of a social investment wholesaler to build the sustainability of the third sector would be lost because the investment needs of third sector organisations were perceived as higher-risk and unconventional.

The need for a new body? 3.25 Around 10 per cent of those who responded to this question were not in favour of the creation of a social investment wholesale institution. Most of these felt that there was little evidence of demand for such a body within the existing market but still felt that surplus assets should support existing social investors.

Government response

3.26 The Government has consistently stated, since the initial announcement in the 2005 Pre-Budget Report, that the priorities for spending in England should be youth services and financial capability and financial inclusion.

3.27 However, the Government recognises the contribution that a thriving third sector can make to the creation of stronger communities, an entrepreneurial society, the participation and engagement of individuals and more effective public services. The joint HM Treasury and Cabinet Office review of the future role of the third sector has shown that access to appropriate forms of finance is often the single biggest concern of the sector⁸.

3.28 Following the outcome of the third sector review, and the arguments put forward by the Commission on Unclaimed Assets and others, the Government added a third priority spending strand for England. The Government sees merit in the model of a new social investment institution proposed by the Commission on Unclaimed Assets. Resources permitting, to reflect the Government's increasing recognition of this gap in the market, we would like to see an appropriate proportion of the available assets in England used to develop the social investment market and invested in the long-term sustainability of the third sector.

3.29 There is continuing uncertainty over how much will be available in surplus assets for distribution back into society, following renewed efforts to reunite owners with their assets, and the need for the independent Reclaim fund to hold back a proportion of assets to cover possible applications for future reclaim. The Government is therefore unable to predict accurately at this time how much might be available from unclaimed assets towards increasing the provision of social investment.

3.30 As highlighted in the response to the Treasury Select Committee's report into unclaimed assets⁹, the Government has made it a priority to examine how a new social investment wholesale institution and other new approaches to social investment might help to ensure that third sector organisations can access more secure and sustainable funding and finance.

⁸ *The future role of the third sector in social and economic regeneration: final report*, HM Treasury, Cabinet Office, July 2007

⁹ *Unclaimed assets within the financial system: Government Response to the Committee's Eleventh Report of Session 2006-07*

3.31 However, the Government also recognises that the case for the creation of a new institution is **not universally accepted**, and will consider the options for allocating a proportion of funding towards social investment in third sector organisations.

3.32 The Government supports the view that a social investment wholesaler should be **independent** and **should not be given any unfair advantage within the existing market**. The Government will also want to ensure that the risks and concerns identified in the consultation responses, particularly around a wholesaler competing with existing ‘retailers’, are adequately addressed.

QUESTION 4

Is this the best means of increasing the investment available to sustainable third sector organisations?

Investment open to all **3.33** Responses to this question were generally consistent in stating that **investment would need to be available to, and meet the requirements of, a wide range of third sector organisations**.

Debt finance not for everyone **3.34** Several organisations suggested that many third sector organisations, particularly smaller community-based organisations, **would not benefit from the products offered by a wholesale institution** as they lack the capacity to take on loans and other forms of debt finance.

Support for grassroots bodies **3.35** There were some concerns raised that investment would not filter down to **grassroots community organisations** via this mechanism and responses cited the need for capacity building support to increase demand, endowment funds and the distribution of investment via local distribution mechanisms as potentially more effective ways of boosting social investment than via the creation of a wholesaler.

Government response

Diversity of funding **3.36** The Government welcomes the responses to this question, and believes that it is important that any investment in this area should be **open to a wide range of third sector organisations** and be able to meet the **diverse needs of the third sector**. The Government recognises that debt, quasi-equity or equity finance may not be suitable for every third sector organisation, but it is clear that sources of income for the sector have diversified over time and that a range of income sources can be important to many parts of the sector.

The importance of grants **3.37** However, the Government understands that **grants** continue to be the major source of income for many third sector organisations, particularly small grass roots bodies. In response to this, the 2007 Budget announced that the Office of the Third Sector will launch a new **£80 million micro-grants fund**, spread over four years, to provide small grants to grass roots community organisations. This will help cover core running costs of small community groups and will be distributed through local independent grant makers, such as Community Foundations.

3.38 Developing the social investment market would also have the effect of helping to free up limited grant funding for organisations that need it most.

QUESTION 5

What kind of activities should a social investment wholesaler focus on?

Offering a broad range of financial products

3.39 Responses to this question could be broken down into two themes. Most respondents provided suggestions for **financial products** which a social investment wholesaler should offer to the third sector. These were broadly similar and most were in line with, and built upon, the activities identified in the consultation document such as capitalising organisations that invest in and lend to the third sector, providing guarantees and encouraging the use of financial advice and business support. Additional suggestions included:

- Capacity building grants
- Long term risk taking investments
- Equity and quasi-equity investments
- Long term subordinated and/or unsecured lending
- Patient capital

Focus on innovation and business support

3.40 The activities that a social investment wholesaler might focus on in order to generate further demand in the social investment market included:

- Gathering evidence of the impact of social investment
- The design and innovation of new products and services
- Providing business advice and support
- Leveraging private capital
- Brokering co-investments

3.41 One respondent suggested that a wholesale body could act as a 'sluice gate' to control the flow of funds to the sector as demand grew, so the sector could absorb the growing supply in a responsible and sustainable way. Some respondents wanted to see the proposed institution carry out an 'investment bank function' to create an environment where co-investment, syndication and collaboration could flourish.

Government response

3.42 The Government has found the responses to this question particularly helpful in raising suggestions of the types of financial products and activities that a social investment wholesaler should offer.

3.43 The Government understands the importance of **innovation** not only in the third sector, but also across the public and private sectors. The Government also places great importance on the provision of **professional and targeted capacity building and business support to the third sector**, alongside financial support.

3.44 The Government will ensure that the points raised in this consultation will be taken into account when considering the targeting of resources in this area.

QUESTION 6

Is the proposal to use the Big Lottery Fund as the primary UK wide distribution vehicle the right one, based on the principles for distribution?

- Support for the Big Lottery Fund** **3.45** There were 75 responses to this question, with around **80 per cent** of respondents in favour of the proposal to use BIG as the primary UK-wide distribution vehicle.
- A distinct funding stream** **3.46** Many respondents felt it important for unclaimed assets to remain **distinct from lottery funding streams** and that the distribution process should be **fair, transparent and open to all third sector organisations**, including those that have previously been unsuccessful in their applications for lottery funding.
- Reducing bureaucracy** **3.47** Some respondents expressed concern that funding through a national organisation might render the application and decision-making process **overly bureaucratic** and therefore time consuming and resource intensive for smaller third sector organisations to manage.
- Relationship between BIG and a wholesaler** **3.48** Respondents that were proponents of a social investment wholesaler were keen to understand the relationship between such an institution and BIG and felt that this relationship ought to be **as arms length as possible** to provide for the wholesaler's independence and expertise to be usefully exercised.
- Other organisations better placed?** **3.49** Those who **disagreed** with the proposal to use BIG did so largely because they felt that other intermediary organisations were better placed to distribute surplus assets effectively, particularly to locally-based, smaller third sector organisations. In addition, a number of responses, particular from organisations in Northern Ireland, highlighted possible **ethical concerns** due to a perceived link to funding generated from the proceeds of gambling.
- Local bodies** **3.50** Suggestions for more suitable distribution mechanisms included third sector umbrella organisations, local authorities, regional and local partnership bodies and building society foundations.

Government response

- 3.51** The Government is encouraged by the **strong support in favour of using BIG to distribute unclaimed assets on a UK-wide basis**.
- A separate and distinct funding stream** **3.52** As set out in the consultation document, the Government will ensure that unclaimed assets distributed via BIG will be **separate and distinguishable from lottery resources**. The Government understands the importance of creating a distinct funding stream for purposes of **transparency, accountability** and to **protect additionality**. In addition, the Government recognises the **ethical concerns** surrounding the need to keep unclaimed assets distinct from resources generated from the proceeds of gambling and sees this as a further reason to keep the two strands separate.
- 3.53** The Government and BIG are also clear that the fact that organisations may have applied for lottery funding in the past **will have no bearing on their ability to benefit from unclaimed assets**. Unclaimed assets will be a separate and distinct funding stream.

Reducing bureaucracy 3.54 The Government places great importance on **minimising bureaucracy** throughout all stages of the funding process, from initial applications for funding, through to grant management, monitoring and evaluation arrangements. Across its work, BIG is looking at ways of streamlining the application process to limit burdens on applicants and the Government expects this approach to be taken in relation to the distribution of unclaimed assets.

Relationship with a social investment wholesaler 3.55 The Government understands the need for clarification in terms of the potential **relationship between BIG and a social investment wholesaler**. As set out in the consultation document, BIG will have the power to delegate its distribution functions to other specialist bodies, for example where other bodies are considered to have the relevant capacity and skills to deliver specific objectives. In the case of social investment, we anticipate that BIG would be likely to use these powers to select a social investment wholesaler, through a competitive tender, to manage some or all of this proportion of assets. The relationship between BIG and the delegated body would be as arms-length as possible to ensure independence.

QUESTION 7

What are the different approaches that the Big Lottery Fund could take to distribution to ensure they deliver maximum benefit to communities? How should BIG best work with other intermediaries and delivery partners to ensure the best outcomes?

Diversity 3.56 Responses to this question were varied. A few organisations felt strongly that in considering where funding should be awarded, BIG should take account of **indices of multiple deprivation** to ensure that funding was awarded to communities most in need. A handful of organisations felt strongly that need should **not be based solely on geography** but should also take account of communities of interest, such as the Lesbian, Gay, Bisexual, Transgender Community, and their associated needs.

Partnerships 3.57 In terms of BIG working with partners and intermediaries, most responses were in favour of this approach with some suggesting that BIG work in **partnership** with, or even delegate appropriate distribution responsibilities to, regional and local bodies, including intermediaries in Scotland, Wales and Northern Ireland as well as specialist infrastructure bodies.

Regulatory burdens 3.58 Suggestions around the different approaches BIG might take to distribution included favouring a **partnership approach** to funding applications that would encourage smaller organisations to benefit, having a **rolling application process** in place to decrease the application burden and providing useful **feedback and support to applicants**.

Sustainability 3.59 Several respondents felt that surplus assets should not be used to provide further programme or project funding but should be focused on making community organisations more **sustainable** and thereby ensuring that these assets would generate a lasting legacy.

Involving young people 3.60 There was a range of suggestions as to how surplus assets might be effectively allocated within the identified priorities for England. In terms of youth services, many respondents felt it imperative that **young people were consulted and directly involved in local decision-making around how funding should be allocated**.

Varied activities for young people **3.61** A number of respondents felt that the focus should not be exclusively on the provision of buildings and facilities but could provide investment into **youth activities more broadly**, including sporting activities; cultural activities; play provision; youth-related social enterprise; and, access to the natural environment.

Strategic approaches to financial capability and inclusion **3.62** In relation to spending on increasing financial capability and inclusion in England, several respondents felt that any new investment in this area should complement existing provision. Respondents also felt that spending in this area should be aligned with the Financial Services Authority-led **National Strategy for Financial Capability**¹⁰, along with the **Government's long-term approach**.¹¹

Government response

Community diversity **3.63** BIG has a good track record of adopting a **flexible approach** to meeting the diverse needs of communities across the UK, overlaid by an emphasis on **equal opportunities**. When developing programmes, BIG takes into account how best to target the needs of individual communities, whether that is geographical, for example by using the indices of multiple deprivation, or by supporting specific groups and communities of interest which suffer significant disadvantage. This allows BIG to respond to the issues, needs and priorities within communities. The Government is keen for BIG to take a similar approach in relation to the distribution of unclaimed assets.

Partnerships **3.64** The Government will expect BIG to take account of the key points set out in the response to the consultation, particularly the need to work in **partnership** with other organisations, especially in specialist areas, and at national, regional and local levels to ensure that these resources are well targeted to meet the needs of communities. BIG has built up an extensive network of stakeholders and delivery partners, and the Government believes that this will be of great benefit when it comes to the effective distribution of unclaimed assets.

Regulatory burdens **3.65** As discussed in the response to **Question 6**, the Government will expect BIG to focus on **minimising the burden on organisations which apply for funding**. The Government is confident that BIG recognises the need to provide **feedback** to third sector organisations on funding applications, and will take the necessary steps to incorporate this into the distribution process.

A lasting legacy for communities **3.66** The Government sees **sustainability** as an important issue and wants to see these assets used to create a **lasting legacy for communities**. Unclaimed assets offer a once-in-a-generation opportunity to realise a new vision for young people and their communities through investment in a network of high-quality, dynamic and attractive places for young people to go. The Government believes that investment in **modern facilities** will create a lasting legacy for young people, and for communities more widely.

Involving young people **3.67** The Government welcomes the responses calling for **young people to be directly involved in decision making around how funding should be allocated**. The Government wants to see the available resources targeted as effectively as possible to ensure that high quality youth services meet the needs of young people and their communities. **Involving young people in the decision making process** is key to ensuring that investment results in facilities and services that meet their needs, and the

¹⁰ http://www.fsa.gov.uk/pubs/other/financial_capability.pdf

¹¹ Financial Capability: The Government's long-term approach, HM Treasury, January 2007

Government sees this as an important element of the distribution of unclaimed assets. BIG has extensive experience of **putting young people at the centre of its programmes**, most notably through its Young People's Fund.

Varied activities for young people **3.68** The Government recognises the importance of a variety of positive activities for young people, both to young people themselves, and to their wider community. Through the Comprehensive Spending Review, the Government is investing up to £185m in such provision for young people. Some respondents to the consultation for Aiming High for Young People: a ten year strategy for positive activities outlined the way in which shabby or inappropriately located buildings in some areas can be off putting to young people, preventing them from accessing activities. In other areas, there is simply nowhere to go. Investing in such facilities – which could be a youth centre, or a smaller, more flexible resource such as a skate park or a music studio – signals to young people and their communities that they are valued. These facilities can also bring together a wide range of organisations providing activities to young people, creating a base from which organisations, particular from the third sector, can deliver activities.

Financial capability and inclusion **3.69** The Government is encouraged by responses calling for spending in relation to **financial capability and inclusion** to be aligned with the Government's National Strategy for Financial Capability. The Government wants to ensure that spending in this area complements existing provision and sees the importance in ensuring that additional funding is well coordinated with the National Strategy for financial capability and the Government's long-term approach. The Government also intends to draw on evidence from the **Thoresen Review of Generic Financial Advice** to inform key priorities for distribution in this area.

QUESTION 8

Do you agree with the proposals for how legislation will work in relation to the distribution of unclaimed assets?

Accountability and flexibility **3.70** There was a range of responses to this question with only four respondents stating that they were not in favour of the Government's proposals. Some respondents suggested some issues that the Government should reflect on in the legislation, including building in **flexibility** within the legislation to allow for a change to the named distribution mechanism in the future should this become necessary, and that BIG should report directly to Parliament over the distribution of surplus assets to bolster the independence of the scheme from the Government.

Operation **3.71** In addition to these points, a number of suggestions were made with respect to the overall operation of the scheme in response to the distribution consultation. These issues are covered in **Part 1** of this document.

Small locally-based finance institutions **3.72** More specifically, a handful of respondents felt that further clarification was needed as to how the arrangements for small, locally based financial institutions would be reflected in the legislation and that this should clarify what their relationship would be with BIG.

Charitable foundations **3.73** Other suggestions included that money be made available to building society foundations directly from a reclaim fund, that building societies' with particular interests should be able to distribute assets to meet their members' priorities and a few respondents suggested that building societies' charitable foundations ought to have preferred status when bidding for funding from BIG.

Government response

- Flexibility 3.74** The Government recognises the value of making the legislation flexible to allow a possible change to the **distribution mechanism** in the future, should the need arise. To that end, the Government intends to include in the legislation powers for the Secretary of State to appoint additional bodies to act as distributors and to remove distributors.
- Accountability 3.75** As a Non-Departmental Public Body (NDPB), BIG is required to be fully accountable for the resources it distributes, and to be transparent in its allocations, including to Parliament. **BIG will account for its spending of surplus assets separately** with these same safeguards in place. BIG will also be required to report separately to the Scottish Parliament and the Welsh and Northern Ireland Assemblies.
- Small locally-based financial institutions 3.76** The Government recognises that some smaller, locally based institutions will wish to see the unclaimed assets they hold spent for the benefit of their local communities or in accordance with any special purposes which the institution has. Under the proposed legislation eligible financial institutions, expected to be primarily building societies, will be able to agree with the a reclaim fund an amount to cover reclaim applications from account holders. This money will be transferred to a reclaim fund. These institutions will be able to transfer money not needed to cover reclaims to charitable organisations on condition that the money is spent for the benefit of their local communities. Affected institutions will be required to disclose which charitable organisations they have transferred money to, and how much. No statutory relationship with BIG is proposed.
- Charitable Foundations 3.77** The Government recognises the contribution of charitable foundations created by representatives of the bank and building society sector and the immense contribution these foundations make to local communities and to the local third sector. As such, these foundations will be able to apply for resources from BIG for distribution within local communities in an open and fair way, and on a level playing field with other charities and third sector bodies.

4

NEXT STEPS

4.1 HM Treasury has used the responses to the two unclaimed assets consultation documents to inform the structure of the proposed scheme, which will be facilitated through the Dormant Bank and Building Society Accounts Bill .

**Reunification
publicity
campaign** **4.2** Prior to the scheme’s launch the bank and building society sector, including NS&I, will run a publicity campaign with the aim of helping consumers to be more aware of their dormant accounts and how to claim them.

Reclaim fund **4.3** The BBA and BSA are taking the lead in identifying or setting up a reclaim fund. The scheme is conditional on the Bill receiving Royal Assent. A reclaim fund will then need some time to set up and become operational, including applying for authorisation by the FSA.

**Distribution
process** **4.4** The majority of respondents to the consultation were in favour of using BIG to distribute surplus assets on a UK-wide basis. A number of constructive suggestions were made as to how the distribution process should work in practice. The Government will expect BIG to take account of the key points made in response to the consultation to ensure that resources are well targeted to meet the needs of local communities.

**Social
investment** **4.5** Respondents also made helpful suggestions with regard to how a proportion of assets might be used to support social investment and if a social investment wholesaler were in place, the activities it might focus on. These suggestions will be taken into consideration where there are sufficient resources generated to support social investment.

**Scotland,
Wales and
Northern Ireland** **4.6** The Devolved Administrations will consult separately to inform decision making around the priorities for distribution in Scotland, Wales and Northern Ireland.

A

LIST OF CONSULTATION RESPONDENTS

Accountant in Bankruptcy
ActionAid Recycling
Advantage West Midlands
Advice NI (Northern Ireland)
Age Concern
Age Concern England
Age Concern Milton Keynes
Alzheimer's Society
Amber Foundation
Animal Health Trust
Ardrossan and Largs Sea Cadet Unit
Aspire Community Enterprise (Sheffield) Ltd
Association of British Credit Unions Limited
Association of British Credit Unions Ltd
Association of Charitable Foundations
Association of Chief Executives of Voluntary Organisations (ACEVO)
Aston Reinvestment Trust (ART)
Barnado's
Barnado's Cymru
Barry Citizens' Action Group
Bees Knees
BIGinvest
Birmingham & Solihull Social Economy Consortium
Bishopston Play Association (Wales)
Bolton Business Ventures Limited
Bridges Ventures
Bristol Enterprise Development Fund
Britannia Building Society
British Bankers' Association
British Heart Foundation
Brooke Hospital for Animals
Building Societies Association (BSA)
Business Enterprise Fund
Caerphilly Town Council
Cambridge Building Society
Camelot Group plc
Campitor St Catherine Co-Operative
Cancer Research UK
Cardiff County Council (Children's Play Services)
Central Council of Physical Recreation (CCPR)

Change Finance
Charities Aid Foundation
Charity Bank
Chartered Institute of Housing
Chief Leisure Officers Wales (CLOW)
City Parochial Foundation (CPF)
Clubs for Young People
Clybiau Plant Cymru Kid's Clubs
Commission on Unclaimed Assets
Community Action Network (CAN)
Community Development Finance Association (CDFA)
Community Foundation Network
Community Recycling Network
Consortium of Lesbian Gay Bisexual and Transgendered Voluntary and Community Organisations
Co-operatives UK
Council for Wales of Voluntary Youth Services
Countryside Council for Wales
Cyngor Tref Abergele Town Council
Department for Social Development (Charities Branch)
Department of Enterprise, Trade and Investment (Insolvency Service)
Derby Furniture Project
Diocese of Chichester
Disablement Welfare Rights Charitable Trust
Donkey Sanctuary
DSL Business Finance (Scotland)
Dulais Valley Partnership (Wales)
East London Small Business Centre (ELSBC)
ECCO Trust (Wales)
Elisabeth Svendsen Trust for Children and Donkeys
Emmaus Leeds Ltd
Energy4All
Esmee Fairbairn Foundation
Ethnic Minority Foundation (EMF)
Evangelical Alliance Northern Ireland and Churches' Community Work Alliance
Fairbridge Cymru (Wales)
Falmouth Green Centre
Financial Inclusion Services Yorkshire Ltd
Financial Services Authority (FSA)
Financial Services Consumer Panel
First Enterprise
Five Sports
Forward Scotland

Fredericks Foundation
Friends Provident Life and Pensions Ltd
Futurebuilders England
General Consumer Council for Northern Ireland
Georgeson
Gloucestershire Development Loan Fund Ltd
Guide Dogs
Gwent Association of Voluntary Organisations
Hastings Trust
Heart Research UK
Impetus Trust
Improvement & Development Agency (IDEA)
Insolvency Service (UK)
Institute of Fundraising (IoF)
Institute of Legacy Management
Ipswich Furniture Project
Kollective Enterprises CIC
Law Centre (Northern Ireland)
Links
Llantwit Major Town Council
London Play
Marie Curie Cancer Care
National Consumer Council (CUA & NCC report)
National Council for Voluntary Organisations (NCVO)
National Council for Voluntary Youth Services (NCVYS)
National Counties Building Society
National Housing Federation
National Lottery Commission
National Trust
National Youth Agency (NYA)
Nationwide
Neath Port Talbot Children and Young People's Partnership (Wales)
New Economics Foundation
Newham Borough Council (London)
Norfolk and Waveney Enterprise Services (NWES)
North London Enterprise Credit Union
North of England Activities and Training (NEAT)
North Staffordshire Risk Capital Fund PLC
Northern Ireland Commissioner for Children & Young People (NICCY)
Northern Ireland Council for Voluntary Action (NIVCA)
Nottingham Building Society
Parkinson's Disease Society
Pembrokeshire Advocacy (Wales)

People's Dispensary for Sick Animals
Play England
Play Right
Play Wales
Plunkett Foundation
Practical Action
Prowess
Public Legal Education Task Force (PLEAS)
RCT Play Association (Wales)
Re-create: Cardiff and Vale Play Services Association
Regulator of Community Interest Companies
Rhondda Cynon Taf
RL Glasspool Charity Trust
Rotary Club of Kirkby (Ashfield)
Roy Castle Lung Cancer Foundation
Royal National Institute of the Blind
Royal National Lifeboat Institution
Royal Society for the Prevention of Cruelty to Animals (RSPCA)
Royal Star and Garter Homes
Salvation Army
Sandwell Advice & Moneylink
Scottish Council for Voluntary Organisations (SCVO)
Scout Association
Shared Interest
SMP Playgrounds
Social Enterprise Coalition
Social Firms UK
South Coast Money Line
South West Investment Group
Spirit of Enterprise
St. Joseph's Hospice
Street North East Ltd
Street UK Micro Finance
The Association of Charity Officers
The Co-Operative Group
The Five Lamps Organisations
The Nationwide Foundation
The Prince's Trust
The Vine Centre
The West Yorkshire Enterprise Agency Limited
Thorplands United Football Club
Tipton and Coseley Building Society
Toynbee Hall

Trinity Homeless Projects
Triodos Bank
Turntable Furniture Re-Use Project
UK Youth
Ulster Community Investment Trust (UCIT) (Northern Ireland)
Unclaimed Assets Charity Coalition
United Nations Children's Fund (UNICEF UK)
Unity Trust Bank
UnLtd
Urban Forum
V
Voluntary Action Swindon
Voluntary Arts Network
Volunteer Development Agency (Northern Ireland)
Wales Council for Voluntary Action (WCVA)
Wales Sustainability Reinvestment Trust
Warwickshire Association of Youth Clubs (WAYC)
Welsh Assembly Government
Which?
WiganRecycles Ltd
Wirral Independent Recycling Enterprise
Women's Resource Centre
Woodland Trust
World Cancer Research Fund
World Vision UK
Wrexham Play Forum
Wrigleys Solicitors
WyeCycle Ltd
Youth Council Northern Ireland
YouthLink Scotland
1 confidential corporate response
11 personal responses

ISBN 978-1-84532-366-0



9 781845 323660 >