



Response by TISA the Dormant Assets Expansion Consultation

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About TISA

The Investing and Saving Alliance's (TISA) ambition is to improve the financial wellbeing of UK consumers by bringing the financial services savings industry together to promote collective engagement, to deliver solutions and to champion innovation for the benefit of people, our industry and the nation.

We do this by focusing on good consumer outcomes and harnessing the power of our broad industry membership base to deliver practical solutions, new digital infrastructure and by devising innovative, evidence-based strategic proposals for government, policy makers and regulators. This holistic approach to address the major consumer issues uniquely positions TISA to deliver independent insight, promote innovation and facilitate good practice.

TISA's rapidly growing membership is representative of all sectors of the financial services industry. We have over 200-member firms involved in the supply and distribution of savings, investment products and associated services, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

TISA will unveil ***Vision 2025*** – our strategic policy roadmap towards delivering a material impact in enhancing consumers' financial wellbeing at our Annual Conference in December 2019. Our current strategic policy focus includes making financial guidance more widely available; financial education for young people; retirement savings and addressing consumer engagement, particularly for the vulnerable.

Complementing our development of consumer policy and thought leadership, TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives (TeX/STAR, Digital ID, MiFID II and Open Savings & Investment). This reflects TISA's commitment to open standards and independent governance.

TISA is also recognised for the support it provides to members on a range of operational and technical issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations. This work currently includes MiFID II, CASS, SM&CR and addressing cybercrime.

1. Do you have any comments on the proposed scope of assets in an expanded scheme (subject to ensuring tax neutrality)?

As term assurance products are only paid out in the event of a claim, a further explanation is sought to understand how these might be included?

Child Trust funds begin to mature from September 2020. It is likely that there will be a large number of assets where the account holder cannot be traced. We believe that these should be excluded at this stage in any expanded scheme and considered later. One of the concerns will be that the bulk of the monies that are held in these accounts would have been provided by the government at the outset. It would not make good publicity for this just to be included in the scheme.

From an Investment Management firm perspective, given the proposal that non-cash assets would need to be monetised before they could be transferred to an approved retirement fund, it would be difficult to establish tax neutrality in respect of the asset owner, as there would be no visibility of their overall tax situation, for example in respect of CGT liability.

TISA supports the exclusion of assets which cannot be converted into cash or are not tax neutral.

2. Do you have any comments on the proposed definitions of assets?

We believe that the scope is very prescriptive and excludes asset types such as gilts and bonds, which may also be included in the portfolios of 'gone away' clients. Also excluded is any interest earned in relation to money held, unless this is assumed as part of the balances from inactive cash accounts.

3. Are there alternative ways of defining the assets?

We consider that in scope there could be a broader definition of tradeable assets, or assets with value, which may be helpful.

4. Do you have any objections to excluding insurance products that do not crystallise to cash from an expanded scheme at this time?

No objections. We agree that to include such products will only create further complications for the scheme.

5. Do you have any objections to excluding pensions from an expanded scheme at this time?

TISA understand not including Pensions at this time due to amount of change in recent years. However, the concerns do not go away. Although Pension firms already carry out regular checks for deceased customers to help prevent overpaying of annuities this is only of limited benefit to the whole Pensions Market. This check is not carried out on small pots for investors yet to reach pension age. Overtime, unless consolidation is carried out as the investor moves from firm to firm, the number of small pots will build up. Work is needed to maintain contact with these clients and, whilst the Pensions Dashboard will assist, it only works for those that log onto it and does not help those that have already passed away. PPI estimated that there was £10bn in dormant pensions in 2018 and is likely to grow by £400m per year. This is not an insignificant figure. TISA therefore recommends that a commitment to including this asset in the near future rather than simply disregarding it.

6. Are there any other assets that the government should consider for inclusion in an expanded scheme?

Consideration could be given to aligning the Client money approach as defined in FCA CASS. The scope could include assets of unknown clients and could also include a broader range of tradeable assets. This would keep things simple and consistent.

7. Do you have any comments on the proposed definitions of dormancy?

We believe that the definitions could be made simpler. TISA do support that there should be alignment with the dormancy periods already defined, or at least consistent where referred to in legislation, standards and guidance to remove any confusion.

It may be appropriate to consider shares, units, bonds etc plus any monies relating to these assets, such as dividends, corporate actions etc to be dormant if contact with the owner has not been possible for 12 years. And in the event of any money held as sale proceeds, interest etc in a cash account, where contact with the owner has not been possible for 6 years.

It would be helpful to clarify that the proportionate and reasonable efforts to reunite the asset with its owner include trying, even where unsuccessfully, to ascertain who the owner is. Many Investment Management firms have orphaned assets where, through time, takeovers, mergers etc the identity of the asset owner is no longer known.

8. Do you have any comments on the proposed scope of participants in an expanded scheme?

TISA does have a couple of points of clarity under the definitions:

- a) Under dormant insurance policy, there should be confirmation that no will exists not just no next of kin. That way ensures there are no beneficiaries identified
- b) Under dormant unit proceeds point ii) TISA feel this should be defined as a period of time where a minimum of 3 distributions could have been paid. This would ensure consistency across the industry and not vary because the distribution period differs between funds. So for example if it were consistent that it was 3 years then three annual distributions could have been paid but 6 half yearly ones. You wouldn't want the period to be only 9 months if the distributions were paid quarterly.

9. Do you have any comments on the proposed reclaim values?

TISA agrees broadly with the definitions of the reclaim values by asset class. However, we believe clarification is necessary with the following:

- a) Does there need to be confirmation that where an asset has dropped in value that the claimant would get the lower value?
- b) What happens if the asset no longer exists? i.e. the fund was liquidated, closed. Would the value be the amount at the time it was passed over to the RFL or the value at the time the asset ceased to be?
- c) Where a firm who is participating in the scheme merges the fund into another firm who does not participate what will be the requirements for the new firm? Although scheme is voluntary this could force some firms to participate even in a small way?
- d) Is there a value of acceptance below which the requirement to maintain information is not required? Or can you choose which records are transferred and which are not?
- e) TISA supports the principle of paying the value of share restitution plus dividends at the time of the claim which would override the share forfeiture principle. However, the approach should be consistent across all shares. Therefore, only one option should be used it being dependant on what the firm adopts.

10. Do you agree that legislation should make reference to participants making proportionate and reasonable efforts, based on best practice within their relevant sector, to reunite the asset with its owner before it can be transferred into the scheme?

- **Please consider whether there are any other ways that suitable tracing, verification and reunification practices could be encouraged and enabled in participants.**

One of the key events carried out when setting up the original scheme, was the reunification exercises carried out by a number of firms before joining the scheme. This included using tracing firms across their book of business and establishing a 'real' position of the quality of their data. Many firms trust their data and processes, believing the volume of 'gone-aways' and deceased clients to

be accurate. In 2015, TISA carried out an exercise on the quality of customer data as part of the introduction of the BSI standards introduced in that year. The findings were very different with percentages much higher than recorded. The standards recognised values of assets etc in defining the minimum efforts required to attempt to reunite assets and also identified pitfalls when making assumptions on the current quality of data, such as the address held having been correctly entered in the first place. The last known address, without such verification cannot be entirely relied upon.

Therefore, as part of the expansion of the scheme it should be a requirement that participants carry out this cleansing exercise, tracing and checking for deceased customers and validating current addresses, before joining. That way, the last known address will have been verified and the most up to date address. Where a customer is deceased, the correct beneficiaries will be recorded. Its recommended that the BSI standard PAS 159 and/or the ABI standards are used.

We also note that with assets held in funds in particular, a participant will be earning a management charge. It could be seen as unethical if a participant were to continue to hold onto those assets earning that management charge, doing nothing, but believing they are gone away or not knowing whether they are deceased.

The scheme should also consider how the use of mylostaccount.org.uk could be expanded to accommodate the additional participants.

From TISAs previous work on tracing mechanisms and various projects involving customer data, it is clear that the government and more specifically the HMRC, hold much of the useful data that would make the process of tracing much simpler. TISA recommends that attempts should be made to make access to this data, purely to be able to reunite the client's assets, a key action of this expansion. Whilst making use of the dormant assets is a good thing, reuniting the assets is still the better result. TISA has several ideas on how interaction between the industry and HMRC could work without compromising data privacy which would at least help the industry in its quest for quality customer data.

11. Do you foresee any barriers to participation in the scheme or have any comments on its operation?

- **Please consider the feasibility of including eligible assets that are held within Stocks & Shares ISAs.**

TISA have already highlighted that some of the assets proposed to be included in the expanded scheme earn fees for the participant. The ethical nature of continuing to hold onto these assets rather than participate in the scheme is questionable and suggests that these assets should be included by default in the scheme. Alternatively, the participant could be asked to contribute the management fees earned by these identified assets.

The scheme as a whole should not just be seen as releasing assets for good causes but an overall package that demonstrates that the industry wishes to maintain high quality customer data and only when the customer cannot be reunited, the assets are paid away. Whilst the consultation makes good reference to the tracing before any action, the scheme needs to make it an integral part of being involved. Therefore, participants are seen as setting a high standard. This would create some sort of peer pressure to participate.

The scheme should then have an ongoing element within it that looks to raise the bar on customer data quality and improve ways of maintaining accurate customer data. A sign of its long term success should be that less money is paid to it.

TISA believes that further support to the scheme would gather if one of the 'good causes' put something back into the industry. One such thing would be to use some of the money to provide financial education to children.

If the intention of the broader scheme, when handling ISAs, is the same as is already in place, i.e. waiving the ISA subscription limit when restitution takes place, then we see there are no unique issues with doing the same with Stocks & Shares ISAs.

12. Do you agree that the existing practice in the event of a participant's insolvency should be extended to all assets in an expanded scheme?

TISA agrees with this statement and does not have any specific concerns around barriers or the feasibility of including Stocks & Shares ISAs.

13. How could legislation on trustee, director or agent duties be amended to enable the proposed participants, as set out in Table 3, to take part in an expanded scheme?

TISA's stance is that if there is clear supervisory guidance and process in place, Trustees and Directors will follow in addition to their own code of ethics.

We also believe that the FCA Client Money and Asset rules could be enhanced to cover the proposal, and provide additional clarity in respect of unknown clients.

14. What protections might a trustee, director or agent need in such circumstances?

TISA believes that there should be insurances in place such as Directors and Officers which are subject to due process being followed and as part of the FSMA (as amended).

15. What do you think the set up and ongoing costs of the expansion would be for participants?

The Client Money and Asset rules could be amended to cover the proposal and provide additional clarity in respect of unknown clients. We envisage there will be additional costs that maybe absorbed by firms.

16. What do you think the initial and ongoing benefits of the expansion would be?

- **In particular, we welcome estimates from potential participants on the value, number and age of dormant assets that they currently hold and could transfer into an expanded scheme, as well as how these figures are expected to evolve 24 Consultation on expanding the dormant assets scheme over time.**

TISA believe that with a robust tracing process in place alongside the money being used for good causes will raise the profile of the industry in a positive way. There will be opportunities for the industry to publicise the positive nature of this exercise which can show consideration for the customer and good use of dormant money.

17. Are there any other significant impacts of the expansion that the government should consider?

TISA has already referred to a use of the money generated by the expansion of the scheme for the use of financial education. It is strongly recommended that this will assist in creating a generation of savers and lead to a reduction in the indebtedness of the country.

TISA are well situated to establish a charitable structure with a proven track record of success with Kickstart money on which to base the delivery.