

A FOCUS ON DORMANT ASSETS

January 2020

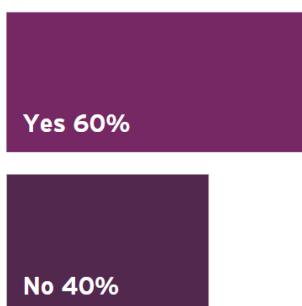


We recently held a special event at our London office, looking at the increasingly prominent issue of Dormant Assets in the securities sector. Assets, whether they be shares, bonds, or outstanding monies of one form or another can be regarded as dormant in circumstances where payments are not being cashed, mail has been returned and there has been a lack of contact with the owner.

The event considered the future management of dormant assets and was split into two panel discussions; the first session involved an expert panel and discussed the work of the Dormant Asset Commission and the appointed Industry Champions in expanding the current dormant asset scheme ("the Scheme") which is operating in the banking sector. In the second session we invited several Issuer representatives to discuss from their differing perspectives the considerations and implementation of a forfeiture programme. This panel included an Issuer in the planning stage of a forfeiture programme and representation from two Issuers that already have active programmes.

Using audience polling technology, we sought to capture the sense of the room as several key points during the debate. The first such poll was designed to capture the proportion of the audience that was already actively considering how to manage shareholder/investor assets that are considered dormant.

The results are below:



What follows is a summary of some of the key discussion points of each panel session, together with audience poll results on an anonymised basis where we believe they provide insight into what attending Issuers are considering when it comes to managing dormant assets.



Panel Session One – Dormant Asset Commission & the expansion of the Scheme:

Our opening panel session included Robert Welch (Tesco plc & the Securities Industry Champion), Claire Etches (Head of the Dormant Asset Team, Department for Digital, Culture, Media & Sport) and Adrian Smith (Reclaim Fund Ltd).

The panel discussed how they personally became involved in plans for the expansion of the existing Scheme, which uses the money from dormant bank accounts and, through the Reclaim Fund, pays that money to good causes operating in one of three areas:

1. Solving social injustice
2. Prompting financial inclusion
3. Aiding children & youth services

Claire talked about how the current Scheme and the planned expansion had to focus on medium to long-term sustainability of finance, ensuring that those organisations receiving money were able to achieve the best possible outcomes and would have a degree of sustainability in their financing.

The discussion turned to the Industry Champions' blueprint for expansion (found [here](#)) that was published in April 2019. The blueprint contains several recommendations for the securities sector. As the Securities Industry Champion, Robert described four key challenges:

- **Making the expansion simple and cost effective for all Issuers**

Any expansion into the securities sector needs to be simple, so that Companies who wish to participate, regardless of their size, history or complexity, could do so with few, if any, barriers. This includes consideration of any associated costs that may arise.

- **Establishing a definition of dormancy that will work for all**

Defining dormancy has proved more challenging than many first thought. Not only do Companies have differing current definitions within their own Articles of Association, but stakeholders on the Securities Working Group all had differences of opinion on how it should be interpreted.

The Working Group has settled on initially building a definition centred on the most common factor, that of a 'gone away' shareholder.

There is still work to be done to firm-up aspects of the recommended definition found within the blueprint - stakeholders including Registrars are working on this currently and it will be a key part of a wider consultation anticipated for release in the first quarter of 2020.

- **Developing a minimum standard for identifying dormant asset holders and reuniting them with their assets**

A fundamental requirement of the expansion of the Scheme is to reunite dormant shareholders with their rightful assets. Therefore, the blueprint considered how a minimum standard could be established that would not only allow all Companies to participate in the expanded scheme, but also be cost effective for all parties involved and ensure the best reunification results for shareholders. Robert explained how the Working Group recommended the introduction of a 'de-minimis shareholding value' below which tracing wouldn't be required; on the basis that the costs would outweigh benefits.

- **Building participation in the expanded scheme**

Working with interested parties to help Boards see the value of the voluntary scheme is seen as one of the important next steps. The hope is that the upcoming public consultation will lead to legislation being introduced later in the year, with the expanded scheme being available from 2021. The panellists also covered future phases of the expanded scheme where they hoped to be able to include other shareholder-

related assets, such as those held within Corporate Sponsored Nominees (although it was recognised that this would require additional changes in the Client Asset Rules and the assistance of the Financial Conduct Authority who have been engaged with on the matter).

Other recommendations contained within the blueprint for expansion were discussed including the somewhat contentious principle of 'full restitution'. This would see former shareholders (i.e. those whose assets were forfeited to the Reclaim Fund) who later came forward to make a claim, having the cash equivalent of their assets returned to them.

While this doesn't sound particularly controversial on the face of it, the fact that the value of the claim would be based on the market value at the point of the claim (as opposed to the point of forfeiture) does cause some challenges; the value, for example, would factor in share price increases or decreases and a payment for dividends that the investor would otherwise have been entitled to, had their shares not been forfeited. The attendees questioned the panel on how such variances may be covered and calculated. The panel explained that, as with the current scheme, not all the money given to the Reclaim Fund would be distributed to good causes, with some of it being retained and used to fund claims (noting also that calculations for a claim would be carried out by the Issuer or their agent).

Some other interesting aspects of the panel discussion included:

- **The impact of disruptive technology**

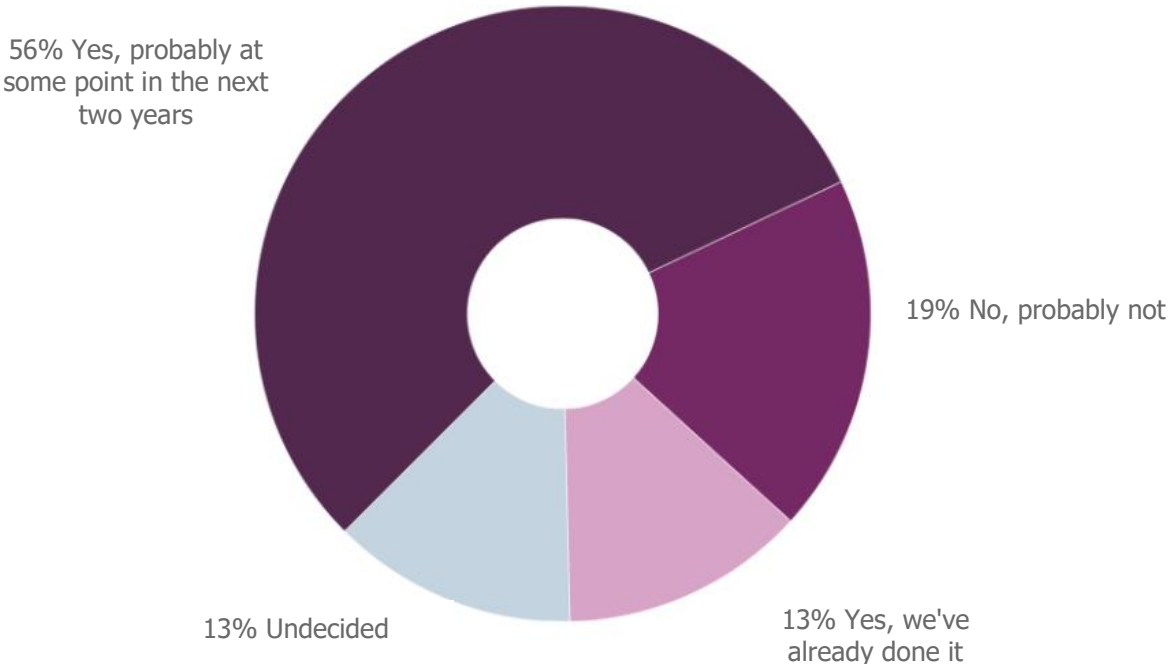
It was recognised that new technologies could have a big impact over the coming years. The panel could see, for example, how the introduction of a dematerialised shareholding model at some point in the future could be beneficial in reuniting shareholders with their assets before they are considered dormant. It was felt that public awareness around dematerialisation, combined with the potential for more efficient and cost-effective communications, could increase engagement.

- **The use of the 'Alternative Scheme'**

Under the current bank scheme there is the ability for those organisations that fit certain criteria to utilise the benefits of an Alternative Scheme. Through this, there is the potential for locally based charities to specifically benefit from customer assets declared dormant. This is currently utilised by Building Societies who have a solid local footprint and wish to support charitable causes closer to home. While the Government aren't currently considering using the Alternative Scheme as part of the expansion in the Securities sector, the upcoming consultation is likely to seek feedback on this point.

As we concluded the initial panel session, we asked the audience one further question.

Do you think your Company will take active steps over the next two years to address the issue of dormant assets?





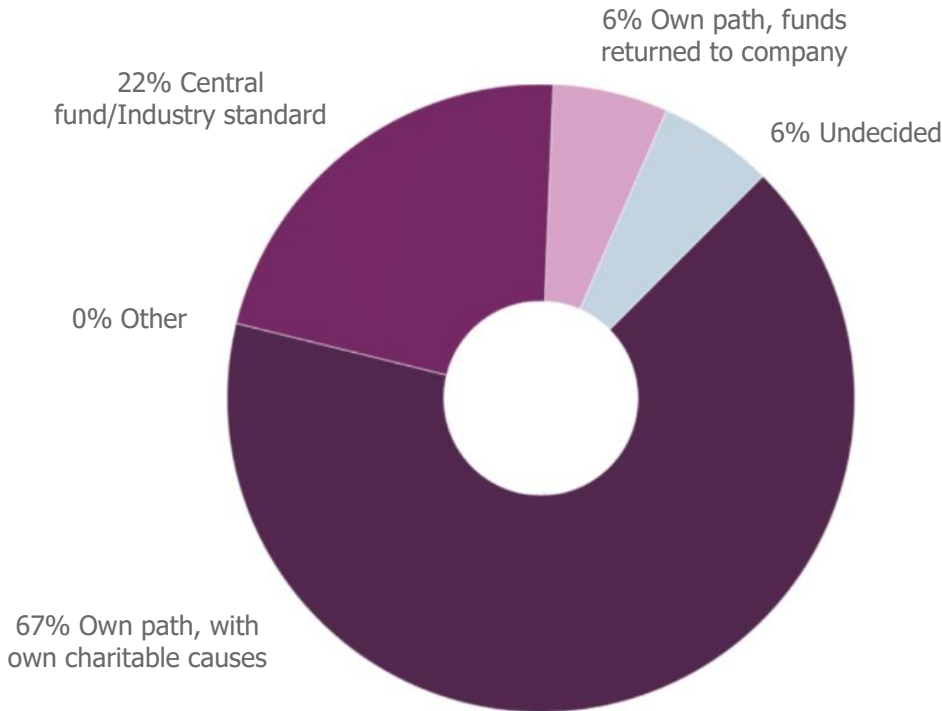
Panel Session Two – The Issuers view:

This panel consisted of Joanna Bujak (Aviva), Taneth Washington (Vodafone) & Robert Welch (Tesco). The panellists were asked to provide their views on how they have implemented forfeiture programmes or what considerations they have gone through to be able to launch a programme.

The panellists could see the benefits of the proposed expanded dormant asset scheme; reflecting that by using the Reclaim Fund an Issuer wouldn't have a liability in relation to meeting a claim from a former shareholder in relation to forfeited assets. It was felt that Issuers who had solid reasons for wishing to conduct a forfeiture exercise that benefited charitable initiatives of their choosing, would be able to evidence a strong corporate social responsibility stance and may find doing their own thing a preferred course of action.

This view point was broadly supported by an audience poll, which asked:

Which option do you think would be most attractive to your company?



The panellists talked to the audience about some of the challenges they may face when working through considerations for establishing a forfeiture programme, whether that be under an expanded dormant assets scheme in the future, or under existing powers in the Articles of Association.

A range of interesting questions were raised by the audience and which, using their experience, the panellists responded to. The questions included:

- **Did the panellist's organisation highlight the undertaking or outcomes from their programme publicly?**

While none of the panellists had undertaken any proactive public relations activity, they also did not seek in any way to hide the fact that the project was being undertaken. All the panellists felt that it was appropriate to report on the outcomes of the programme to their stakeholders in some fashion, whether via their account report and accounts, or via their website. This represented an opportunity to communicate their logic as to the good causes that have benefited from the monies derived from the forfeited assets.

The view of the panellists was that participation in such schemes was unlikely to generate any negative publicity. One issuer had engaged with proxy advisors to seek their views on participation in such schemes and whether changes to the Articles of Association to facilitate such an initiative would be opposed. Feedback had been that this was uncontroversial providing robust tracing was being conducted and the appropriate governance framework followed.

- **Did the panellist's organisations update their Articles to ensure they could forfeit both shares and dividends simultaneously?**

All our panellists agreed that to not forfeit both shares and dividends at the same time would be administratively short-sighted. Doing both at the same time made the programme far 'cleaner'.

- **Was a portion of forfeited funds ring-fenced to cover future shareholder claims?**

The panellists had, or were planning to, ring fence a proportion of the funds, but the amount varied between organisations. Engagement with their Registrar to obtain insight on the levels of claims post-forfeiture had helped inform their final decision – as is the case with many initiatives of this type, bringing in the wider experiences that the Registrar has is beneficial to decision making.

It was discussed that some of the organisations who had adopted forfeiture schemes already had limited the length of time that an individual could make a claim following the forfeiture event, and that this provided an extra level of certainty around their ongoing obligations and claims management.

- **What were the key changes that organisations would need to make before launching a forfeiture programme?**

All the panellists had to amend their Articles of Association, but felt that combining such amendments with other changes, where possible, was preferred. The required changes to standard Articles included removing outdated references to making notifications of dormant assets in national and/or local newspapers, and refining definitions of a gone away shareholder to better reflect the level and frequency of communications that shareholders receive.

- **What measures could be taken to reduce the likelihood of a shareholder's assets becoming dormant?**

The panellists felt that early engagement and intervention is the best approach and that a forfeiture event is only carried out when it has not been possible to re-engage with a shareholder.

Ensuring shareholders are given the right 'welcome' when they first buy shares is important in the education around what their responsibilities are for keeping their details up-to-date, for example. All other communications during the shareholder lifecycle should follow in a similar vein and where possible should promote the use of portals provided by the Registrars as a simple and easy way to manage their account. Starting tracing activities soon after a shareholder is identified as 'gone away' is also important and leads to a higher chance of successfully getting back in touch.

Another option discussed was the potential for improved access to government data, such as in other industries where centralised databases (like the DVLA or HMRC) can provide alternative avenues to be informed of or validate up-to-date contact details; could this type of solution be utilised in the securities industry to make direct updates to a share register? It was recognised that the securities sector has no such access currently and is unlikely to change in the short term, but it is an area that the panel felt was worthy of consideration for the future.

- **What about dissenters' monies?**

Currently such monies wouldn't be able to be included in a forfeiture programme as it would require legislative changes, however Robert did advise the audience that this was another area that the Securities Working Group had considered and have made recommendations on.

Based on the level of interest in the event and the discussion during the session itself, this is clearly an important topic for our clients and the securities industry. Associated conversations with clients are occurring more regularly and many are taking active steps to proactively address the matter of dormant assets. Our engagement with the relevant government departments and Securities Sector Working Group will continue.

We will keep our clients informed of progress on this topic, particularly as we expect a public consultation on the proposals in the coming months. If you want to discuss any elements of this blog in more detail now, either get in touch with your Computershare Client Manager or Client Solutions Director, [Cecilia Williams](#).