

Policy Statement

PS24/10

Expansion of the Dormant Assets Scheme – second phase

August 2024

This relates to

Consultation Paper 23/12 which is available on our website at www.fca.org.uk/publications

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Chapter 1

Summary

- 1.1** In CP23/12, we consulted on the second phase of the expansion of the Dormant Assets Scheme (DAS).
- 1.2** The DAS was expanded under the Dormant Assets Act 2022 (DAA 2022) to facilitate the inclusion of dormant assets from the following new sectors:
- insurance
 - pensions
 - securities
 - investment assets
 - client money
- 1.3** The first phase of the expansion, which covered insurance, pensions, and securities, was consulted on in CP22/9 and changes were made to our Handbook on 1 August 2022. The second phase of the expansion, which is the subject of this policy statement (PS), covers investment assets and client money.
- 1.4** The consultation closed on 10 July 2023. We received 14 responses. In this PS, we have summarised the feedback we received and our response to it.

Who this affects

- 1.5** The PS will primarily affect:
- Reclaim Fund Limited (RFL)
 - Managers and depositaries of authorised collective investment schemes
 - Firms holding client money
- 1.6** The PS may also be relevant to insolvency practitioners, professional advisers, trade associations, and consumer organisations.

The wider context of this policy statement

Our consultation

- 1.7** Under the Dormant Bank and Building Society Accounts Act 2008, the DAS was created to allow banks and building societies, should they wish to, to pay dormant monies to an Authorised Reclaim Fund (ARF), which would then put this money towards funding good causes. Under the DAS, bank accounts are deemed dormant when they have been untouched for a minimum of 15 years and the bank or building society has been unable to trace the owner. Banks and building societies can voluntarily channel funds from dormant accounts to the DAS via an ARF or dormant asset fund operator. The ARF is responsible for meeting any reclaims and the distribution of dormant funds to good causes.

1.8 The DAS is underpinned by three principles:

- Reunification first: assets are only classed as dormant and made available to the DAS after satisfying strict criteria with participating firms' first priority being to trace and reunite people with their assets
- Full restitution: asset owners are able, at any point, to reclaim the amount that would have been due to them had a transfer into the DAS not occurred
- Voluntary participation: potential participants can choose whether to contribute to the DAS and to what extent

1.9 The DAA 2022 expanded the current DAS to facilitate the inclusion of assets from new sectors. The full list of assets in scope, new definitions of dormancy, and reclaim values can be found in the DAA 2022.

Staged expansion

1.10 We agreed with HM Government (HMG) and Reclaim Fund Limited (RFL) to carry out the expansion of the DAS in two phases. This reflected the differences between the different asset classes and their resolution processes. Having consulted and made changes to our rules and guidance to expand the DAS to dormant insurance, pensions, and securities assets, we now intend to make amendments to our rules and guidance to enable dormant investment assets and client money to be available to the DAS, following the latest consultation. Similarly, the Financial Ombudsman, with whom the consultation was jointly issued, intends to make amendments following the consultation.

Other provisions: Unwanted Assets

1.11 An unwanted asset is an asset that the customer it belongs to authorises to be transferred to an ARF, such as RFL. As defined under section 21 of the DAA, this includes a person who has a right to payment to the following amounts:

- the balance of a bank or building society account (see section 8 of the 2008 Act);
- eligible insurance proceeds;
- eligible pension benefits;
- an amount owing by virtue of a collective scheme investment;
- eligible client money;
- eligible proceeds or distribution.

1.12 Our rules will allow firms that become participants in the DAS to transfer dormant investment assets and client money, including unwanted assets.

How it links to our objectives

1.13 One of our statutory objectives is to secure an appropriate degree of protection for consumers. The FCA is concerned that some participant firms may withdraw from the market or fail in ways that would impact RFL's capacity to deal with reclaims. For example, in an insolvency situation, a customer whose assets had been transferred to RFL may have no ability to reclaim. This is because after a firm enters into insolvency

proceedings, RFL may not be able to access the records from the participant firm or its insolvency practitioner. Were a customer to seek reclaim, there is a risk that a lack of records would make verifying claims and calculating what may be owed impossible.

- 1.14** We have worked with HMG, RFL and industry to facilitate expansion of DAS to the client money and investment assets sectors. Consumer protection is at the heart of the DAS and a core principle of the Scheme is full restitution, where asset holders have a perpetual right to reclaim from RFL what they would have been owed by the relevant participant had their assets never been transferred. If a participant enters an insolvency proceeding and is unable to continue acting as a participant and/or transfer its participant role to a successor participant, RFL requires access to any relevant records and to take receipt of the same. RFL's new provisions should facilitate transferring records in the absence of a successor firm in the event of an insolvency or a firm exiting the market. This should allow RFL to verify and assess future reclaims after a participant's insolvency.

Outcome we are seeking

- 1.15** Our proposals should result in an increase of funds being released to support good causes from investment assets and client money assets that are transferred to the DAS. At the same time, our proposals should enable customers who have a right to reclaim dormant assets to do so without delay or difficulty, thereby securing an appropriate degree of protection for consumers.

Measuring success

- 1.16** Key initial indicators of success of expansion will be the number of firms that choose to become participants in the DAS and are accepted by RFL, and the value of dormant assets that are transferred to the scheme. This remains the same as set out in the Consultation Paper.
- 1.17** The Government has estimated that around £240m in total will be made available from the expansion of the DAS to fund social and environmental initiatives. This is likely to provide further benefits to society, depending on future investment plans by ARFs.

Summary of feedback and our response

- 1.18** We received 14 responses from a variety of stakeholders. These included trade bodies, banks, investment firms, and insurance firms. Most respondents were either supportive of or neutral to the proposals.
- 1.19** Several respondents raised concerns about the proportionality of the measures proposed as they could deter firms from participating in the expanded DAS. Some suggested minor changes to ensure that the proposed measures are proportionate to the risks they are trying to mitigate.
- 1.20** For example, some respondents disagreed with our proposal to cancel units repurchased under the 'conversion' power of section 9(3)(b) of the DAA 2022, as this proposal was seen as operationally complex weighed against the risk it seeks to mitigate.

- 1.21** Several respondents considered the proposal to treat changes to the instrument and prospectus of the fund as significant (and thus requiring prior written notice to unitholders) as onerous and therefore a potential barrier to participation.
- 1.22** Some respondents noted inconsistencies in the proposed record-keeping requirements.
- 1.23** We have worked closely with key stakeholders to understand feedback received on expanding the DAS to investment assets and client assets. Following consultation feedback, we propose making minor changes to the draft rules in the Collective Investment Schemes sourcebook (COLL) and amendments to the Dispute Resolution Complaints sourcebook (DISP). These are discussed in the following chapters.
- 1.24** Please refer to the Feedback Statement in Chapter 2, 3 and 4 for a full overview of the feedback received and our response.

Equality and diversity considerations

- 1.25** We have considered the equality and diversity issues that may arise from the proposals in this Policy Statement. Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010.

Next steps

- 1.26** Following our rule changes coming into force, RFL will be able to accept contributions from the investment assets and client money sectors. RFL will also need to put in place contracting agreements with participants, before any transfers can be made and announce a start date for these expanded sectors.

Chapter 2

Investment Assets

- 2.1** We consulted on amendments to our rules and guidance to enable dormant investment assets to be made available to the DAS. These amendments would allow firms to participate in the Dormant Assets Scheme for this asset class and ensure that consumers are able to access reclaims.
- 2.2** We received feedback from 14 respondents, comprising mostly asset managers and trade associations.

Changes to investment asset rules

- 2.3** Most respondents were either supportive of or neutral to these proposals. One respondent requested clarification on whether investors should be able to contact the depositary of an authorised fund in relation to unwanted assets. Instead, they suggested that firms explain how information might be obtained from, and instructions passed to, the Authorised Fund Manager (AFM). They also requested clarity over the treatment of proceeds arising from the conversion of units in eligible Collective Investment Schemes (CIS) for onward payment to the DAS operator.
- 2.4** Other respondents did not agree with the proposals, with one stating that the measures are disproportionate to the risks they seek to mitigate. They felt the proposals would make participation less attractive and make it more difficult for firms to participate in the DAS than to transfer funds directly to charities.
- 2.5** Some respondents considered that the proposed requirement to cancel units relating to a transfer is operationally too complex compared to the risk. Another respondent argued that an investor's instruction to make payments relating to unwanted assets to a registered charity or the DAS is already permitted by COLL. Unwanted assets are those where a person has declared that they want the amount owed or part of it, to be transferred to RFL.
- 2.6** Several respondents noted that when a fund is wound up, orphan monies cannot be transferred in their entirety if some or all the unitholders in the fund are still contactable, so this would severely limit any possible usage or more likely eliminate its potential use since the amounts attributable to any one investor will be very small. Additionally, the proposed rule changes would not cater to legacy orphan monies relating to previously terminated funds, as records of beneficiaries may no longer be available via fund operators or their appointed registrars.
- 2.7** Many respondents considered the proposal to treat participation in the DAS as a significant change to the fund, which requires prior notice to be given to unitholders, to be impractical. They pointed out that the investors who are most affected will likely not be contactable in any case, especially given the existing obligation in COLL is to make payment to the originating fund with no right of "reclaim" after a minimum

period of 6 years. A transfer to the DAS, which encompasses a right to reclaim, is more advantageous and therefore we should not consider this to be a significant change. They noted that we stated in the CP that directly impacted investors will not receive any notification no matter how much notice is provided. However, this issue may be mitigated as more investors provide contact details in formats such as email addresses, and in transferring payment mandates away from cheques towards electronic payment. This communications format could also be more effective than a formal unitholder notice.

- 2.8** Some respondents suggested that instead we should treat the changes as notifiable. They suggested that the reference to “general announcement” could be made more explicit as an alternative. This could entail advertising, similar to what is required for equivalent changes to other finance product structures, or some form of ‘blanket’/ market announcement.
- 2.9** One respondent asked whether other steps are required in relation to the multiple definitions of dormancy (e.g.: the DAA 2022 vs. current CASS rules) that will be in place once the rules are effective. While the time periods are consistent, one looks at the last communication date and the other looks at the last activity on the account, which means there will be different definitions for paying to charity and paying to the DAS.
- 2.10** Another respondent noted that in COLL the Glossary definitions of ‘eligible distribution of income’ and ‘eligible redemption proceeds’ refer to sections 9(3)(c) and 9(3)(b) of the DAA 2022 respectively. They considered that this suggests that the relevant section of the DAA 2022 for redemption payments is 9(3)(b).

Our response

Cancellation of redeemed units: We have decided not to proceed with this requirement under COLL 6.2.17BR (2) and COLL 4.2.5R (17) (da), which would have required units that were being redeemed prior to transferring the money to RFL to be compulsorily cancelled. We agree based on the feedback received that the added complexity for firms is not justified by the minimal risk and size of harm that the rule was intended to resolve. Under the final rules, redeemed units will not need to be compulsorily cancelled.

Unwanted assets: To better align with existing CASS rules on payments of unwanted assets to charity, we will amend COLL 6.8.4R(4)(b)(i) to give the AFM and the depositary the choice on whether to transfer the unclaimed distribution to a dormant asset fund operator in accordance with the instrument constituting the fund and the prospectus, or not.

This amended final rule gives the AFM and depositary the ability to transfer an unclaimed distribution to RFL in accordance with the fund’s constituting instrument and prospectus. It will allocate responsibilities more appropriately by allowing the AFM to instruct the depositary to transfer the unwanted asset money to a dormant asset fund operator.

Additionally, we will amend COLL 6.8.4AR (2) so that the authorised fund manager or (where relevant) the depositary may transfer the unwanted asset money to a dormant asset fund operator in accordance with the instrument constituting the fund, the prospectus and section 21 of the DAA 2022.

These changes should ensure that the depositary does not need to be a participant in the DAS if it doesn't wish to.

Orphan monies: We have decided to amend COLL 6.6.6R(5), so as to require the AFM to maintain records if either the AFM or the depositary transfer money to the DAS, including when dormant assets which are orphan monies are transferred to the DAS.

Where a fund has been wound up leaving a residual amount of assets, and the AFM is able to contact most or all of the unitholders, the AFM would have to ask each contactable unitholder to renounce their residual interest in the fund under the unwanted assets provisions. Although this treatment of assets is a consequence of the legislative framework, we accept that it may not be practicable for AFMs to action. We will consider whether an alternative treatment could be developed under our rules, for future consultation. Similarly, where records of all past unitholders no longer exist, the orphan monies do not meet the criteria for transfer to the DAS. COLL provides for such monies to be paid into court, but this is burdensome when the amounts involved are very small and an alternative option would be desirable.

Significant change: We will not proceed with the proposed rule COLL 4.3.7G (2)(e) to treat participation in the DAS as a significant change. Notice of a significant change to a fund's constituting instrument or prospectus will only be received (at least in the immediate term) by parties which are by definition contactable, engaged and therefore whose holdings of units or other monies are likely not to be at risk of being classed as dormant. On the other hand, those whose dormant assets may be transferred to DAS in the immediate term will not be able to be contacted directly to advise them of the change. Notice to unitholders is effectively irrelevant to those unitholders who may be affected by the DAS rules.

Glossary definition of "redemption": For clarity, the Glossary defines "redemption" solely when the manager is acting as a principal. When the manager is acting as principal the redemption amount held will be client money (section 12 & 13 of the DAA 2022 rather than section 9).

Chapter 3

Client Money

- 3.1** The expansion of the DAS will provide firms subject to the CASS rules with an option to transfer unclaimed client money to the DAS, providing they meet the relevant dormancy conditions set out in the DAA 2022. In CP23/12 we set out proposed amendments to the CASS rules that will permit firms holding client money to participate in the DAS, subject to agreement from an ARF.
- 3.2** Our proposed amendments included provisions addressing the discharge of firms' client money responsibilities; giving priority to the DAS overpaying away dormant client money to charity for investment firms; creating tracing requirements; and dealing with client money distribution in firm failure scenarios.

Discharge of client money responsibilities

- 3.3** We asked if the proposed amendments provided sufficient certainty that the requirement to hold money as client money is extinguished for all relevant chapters of CASS.
- 3.4** Most respondents were of the view that sufficient certainty was provided and supported the proposed amendments.
- 3.5** One respondent thought the proposed amendments were sufficient but questioned whether firms would be free under common law and contract to participate in the DAS. One respondent queried the lack of provision covering reclaims where a previously dormant client sought the return of funds that had been transferred to the DAS. One respondent agreed with the proposed amendments but queried why there was no amendment to the CASS rules to confirm that participating firms must retain certain records. Several respondents urged extending the application of the DAS to custody assets and unallocated client money.

Our response

We are introducing these rules as consulted on. We believe the amendments to the CASS rules provide the certainty firms need to allow them to voluntarily decide to participate in the DAS, extinguishing their client money responsibilities when money has been transferred to an ARF.

The DAA 2022¹ has the effect of transferring liability from the firm to the DAS so we do not believe that the concerns expressed by one respondent about potential legal barriers to transferring client money to the DAS pose an obstacle to participation.

¹ See s.12(2) DAA 2022.

We have not made provision in the CASS rules to deal with reclaims. Whilst we understand the only current ARF, RFL, uses a form of agreement whereby a participating firm acts as RFL's agent for the purposes of actioning reclaims, we do not regard the return of funds from RFL to the firm as meeting the criteria for such funds to form client money for the purposes of the CASS rules. In any event, liability to the client would remain with the DAS, including where an agency agreement was in use between the participating firm and the ARF.

We have not made provision for ongoing record-keeping requirements in the CASS rules as we understand RFL places contractual obligations on participating firms that are designed to ensure the necessary customer records are retained so that a reclaim can be processed.

It is for Government to decide whether to extend the application of the DAS to custody assets. Any such decision would require a change in legislation.

Existing CASS provisions for dormant client money

- 3.6** We proposed modifying the existing provision in CASS 7 that allows an investment firm to pay away allocated but unclaimed client money to a registered charity. We asked if stakeholders agreed that firms that are participants in the DAS should be required to first attempt to transfer client money to the DAS (where the relevant dormancy requirements in the DAA 2022 are met) before attempting to pay away to charity under the existing CASS rule.
- 3.7** There was a mixed response to this question. Several respondents strongly supported the proposed priority afforded to the DAS, believing it would bring clarity to, and benefit, both consumers and the DAS. One respondent noted that there would be benefit to firms by removing the contingent liability on firms when paying away client money to charity as liability under the DAA 2022 transfers from the firm to the DAS (unlike when paying away to charity where firms are required to unconditionally undertake to pay to the client concerned a sum equal to the balance paid away to charity in the event of the client seeking to claim the balance in future).²
- 3.8** Several other respondents strongly opposed the proposal, arguing that firms should retain discretion and that mandating priority to the DAS would deter firms from participating. Some of these respondents also thought a mandatory priority was inflexible and ran counter to the voluntary premise of the DAS. They noted that a firm's policies can change over time so a participant should not be bound to the DAS for all time.

² CASS 7.11.54 R. Alternatively, an unconditional undertaking may be given by a member of the firm's group.

Our response

We have decided to not impose a requirement granting priority to the DAS over the existing provision that allows an investment firm to pay away allocated but unclaimed client money to a registered charity. We are mindful of deterring participation in the DAS given the scheme's considerable benefits to society and recognise there may be circumstances where a participant firm has a valid reason for choosing to pay away client money to charity, even though it may meet the criteria for transfer to the DAS.

We are therefore amending the proposed rules by allowing a participant firm to make its own choice between the two options. We do however expect that, when making this choice, firms should consider the impact on their clients, including the benefit offered by DAS in terms of allowing clients to reclaim their assets in perpetuity.

Tracing requirements

- 3.9** We proposed requirements for firms to take reasonable steps to trace a client prior to transferring client money balances to the DAS. These were modelled on and consistent with the existing provisions in the CASS rules that apply when firms wish to pay away dormant client money to charity.
- 3.10** There was a lot of agreement in principle that tracing requirements were needed. Several respondents supported the rules as proposed and regarded them as proportionate. One respondent welcomed the clarity the requirements offered. Another respondent noted that it would be undesirable if there were high volumes of reclaims from the DAS resulting from inadequate tracing by firms so regarded regulatory requirements as being necessary.
- 3.11** Several respondents thought these provisions were unnecessary, industry best practice could be relied upon and administrative burdens were being placed on firms which could deter participation. One respondent noted that a participating firm must have contractual arrangements in place with an ARF regarding tracing, and that there was a potential for confusion and conflict between these arrangements and the regulatory requirements.

Our response

We are introducing these rules as consulted on. We believe the consistency between these provisions and those that apply when firms pay away dormant client money to charity will aid clarity and allow firms to streamline processes.

We note that our use of evidential provisions provides firms with flexibility whilst, at the same time, ensuring tracing is robust, and in line with the expectation embodied in the DAA 2022. As such, clients should benefit through a greater likelihood of being repatriated with their client money before a transfer to the DAS is made, avoiding the need for a reclaim application in the future.

We acknowledge that firms will also be subject to contractual obligations imposed by an ARF. However, we believe that the flexibility of our approach should enable a well-designed and executed tracing process that satisfies both contractual and regulatory requirements.

Client money distribution and payment to the DAS

- 3.12** We proposed amendments to the existing rules that determine the treatment of dormant client money in the event of a firm failure. For investment firms subject to CASS 7A, allocated but unclaimed client money can be applied towards making good any outstanding shortfall in the client money pool. We proposed that where the failed firm is a participant in the DAS, it should first attempt to transfer eligible dormant client money to the DAS (subject to the ARF accepting it) before applying it towards any shortfall. This would allow dormant clients to reclaim their money in the future, rather than lose their entitlement.
- 3.13** Other types of CASS firms (insurance intermediaries, claims management companies and debt management firms) would also be required to attempt to transfer dormant client money to the DAS.
- 3.14** Some respondents supported the proposals and approved of the aim to protect consumers by enabling them to claim in the future.
- 3.15** Several respondents opposed the proposals as they related to investment firms subject to CASS 7A, arguing that it was unfair to other clients if dormant clients were protected from the effects of any shortfall in the event of a firm failure if their client money was transferred to DAS whole. One respondent thought the provisions might give the impression that an ARF had to accept client money from a failed firm.

Our response

It was not our intention that, in circumstances where a participating investment firm subject to CASS 7A transfers eligible dormant client money to the DAS, dormant clients should be protected from any shortfall. We acknowledge this would be detrimental to non-dormant clients who had claimed client money due to them. Our intention is that the usual pro rata treatment would apply, and any reduced entitlement would then be transferred to the DAS (subject to an ARF accepting it).

We believe that the opposition voiced by several respondents was based on this misunderstanding and that they were not opposed in principle to what we intended. We are therefore introducing these rules as consulted on but have added a guidance provision to make it clear that dormant clients of failed investment firms subject to CASS 7A should be subject to any shortfall in the same way as other (non-dormant) clients. We have also added guidance provisions to CASS 5, 11 and 13 to make it clear that transfer to DAS should not prejudice any other clients.

We acknowledge that it is entirely at an ARF's discretion as to whether it will accept transfers of eligible dormant client money and do not consider our rules suggest otherwise.

Chapter 4

Dispute Resolution

- 4.1** We proposed to make amendments to DISP 2.7.6R so that persons who were entitled to certain dormant investment assets owing to them, or client money held for them, can complain to the Financial Ombudsman about the dormant asset fund operator where these assets are transferred to the dormant asset fund operator.
- 4.2** We proposed not to amend the Handbook Glossary definition of a regulated activity to include 'dealing with unwanted asset money' in article 63N(1)(c) of the Regulated Activities Order. This was because we proposed not to apply any Handbook requirements in relation to this activity, as we did not foresee any harm arising from a dormant asset fund operator's receipt of unwanted asset money. A consequence of this proposal (not to amend the Glossary definition of a 'regulated activity' to include 'dealing with unwanted asset money') was that complaints relating to this activity would fall outside of the Financial Ombudsman's compulsory jurisdiction (something which the FCA specifies, see DISP 2.3.1R).
- 4.3** There were 10 responses to these proposals. All respondents agreed with the proposals, with the exception of one who said that if the FCA chose not to amend the Glossary definition of a regulated activity to include 'dealing with unwanted asset money' it would encourage close monitoring of this area to identify any harm that arises from a dormant asset fund operator's receipt of an unwanted asset.

Our response

We are making the amendments to DISP, as consulted on.

Since consulting on the second phase of the expansion of the DAS, changes have been made to the operation of the Handbook in GEN 2.2.13R, as consulted on in CP23/25 and confirmed in Handbook Notice 2024/116 that mean 'dealing with an unwanted asset' will automatically fall within the Glossary term of 'regulated activity'. To achieve the desired policy outcome and to make clear that the FOS's compulsory jurisdiction does not include complaints about 'dealing with unwanted asset money' we have added wording to DISP 2.3.1R which carve out 'dealing with an unwanted asset' from the scope of the compulsory jurisdiction.

Further, since we are not intending to apply any Handbook requirements in relation to the activity of 'dealing with unwanted asset money' we are not amending the list of relationships in DISP 2.7.6R to make persons who transfer an unwanted asset eligible to refer a complaint about the unwanted asset transfer to the Financial Ombudsman, if the complaint is about RFL. This means that the policy position set out in our consultation remains unchanged.

We remain satisfied that there is little risk of harm arising from not providing access to the Financial Ombudsman in the scenario described above, due to the declarations in the Dormant Assets Act (s.21) that require the person who has a right to payment of monies to confirm to the original provider that they want the amount owing to be paid to RFL instead, and that no third party has any right over the amount. Consumers who have unwanted assets transferred to a dormant asset fund operator will be able to refer a complaint to the Financial Ombudsman about the firm that made the transfer, if the firm was authorised by the FCA at the time the transfer was made, and all other eligibility criteria are met.

If we receive evidence that identifies concerns with consumer access to the Financial Ombudsman, we will consider whether it is necessary to re-visit our position.

We reiterate our position set out in CP23/12 that persons who have dormant securities assets transferred to a dormant asset fund operator are not eligible to refer a complaint about the dormant asset fund operator to the Financial Ombudsman. This is because we do not regulate companies that may contribute securities assets to the Dormant Asset Scheme except insofar as these are regulated financial services firms, so we have not introduced new rules in this area.

The voluntary jurisdiction

- 4.4** The Financial Ombudsman also has a voluntary jurisdiction (VJ) in which financial services firms may choose to participate. The VJ largely mirrors the compulsory jurisdiction (CJ) but also covers some types of complaints not covered by the CJ. The Financial Ombudsman is responsible for overseeing the VJ.
- 4.5** As the Financial Ombudsman explained in CP22/09 (Expansion of the Dormant Assets Scheme), it considered it unnecessary to mirror the changes which were made to the CJ in 2022 in the VJ at that time. This was due to the nature of the regulated activities in question, the fact that RFL was the only entity that had been authorised to carry them out, and that RFL was already subject to the CJ.
- 4.6** For similar reasons, and to ensure consistency with the position adopted at that time, the Financial Ombudsman similarly planned not to mirror our proposed further changes to the CJ in the VJ on this occasion.
- 4.7** As a result, the Financial Ombudsman proposed to make certain amendments to the VJ rules, guidance and standard terms, to make it clear that the changes which we proposed to the CJ in relation to the further categories of assets in question would not be mirrored in the VJ. This would mean that complaints about dormant asset fund operators would only be covered by the CJ, not the VJ.

4.8 All respondents to this question agreed with the proposals.

The Financial Ombudsman's response

The Financial Ombudsman will be implementing its proposals.

Financial Services Compensation Scheme (FSCS)

- 4.9** The Dormant Assets Act makes provision for the Treasury to make loans to any specified 'authorised reclaim fund operator' where the fund is or is likely to become unable to meet its liabilities. RFL is specified for these purposes. This makes the FSCS's role in covering defaults by RFL obsolete and, in recognition of that, the Act removes the power of the FCA or PRA to make FSCS scheme rules in respect of any specified 'authorised reclaim fund operator'.
- 4.10** Following consultation, the Prudential Regulation Authority (PRA) removed rules relating to the DAS from the PRA Rulebook as PRA no longer has the power to make rules in relation to FSCS protection of repayment claims under the DAS. It said that following removal of the DAS rules from the PRA Rulebook, the FCA will make associated changes.
- 4.11** We proposed to make these associated changes by removing reference to operating a dormant asset fund in FEES 6 Annex 3AR and amending the definition of a participant firm to remove obligations relating to FSCS on dormant asset fund operators.
- 4.12** All respondents to this question agreed with our proposals.

Our response

We are implementing our proposals without change.

Annex 1

List of non-confidential respondents

abrdrn

Financial Services Consumer Panel

Marsh Ltd

Reclaim Fund Limited

Annex 2

Abbreviations used in this paper

Abbreviation	Description
AFM	Authorised Fund Manager
ARF	Authorised Reclaim Fund
CASS	Client Asset sourcebook of the FCA Handbook
CIS	Collective Investment Scheme
COLL	Collective Investment Schemes sourcebook of the FCA Handbook
DAA 2022	Dormant Assets Act 2022
DAS	Dormant Assets Scheme
DISP	Dispute Resolution: Complaints sourcebook of the FCA Handbook
FOS	Financial Ombudsman Service
FSMA	Financial Services and Markets Act 2000
HMT	HM Treasury
RFL	Reclaim Fund Limited

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Appendix 1

Made rules (legal instrument)

DORMANT ASSETS (COLLECTIVE INVESTMENT SCHEMES AND CLIENT MONEY) INSTRUMENT 2024

Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137B (FCA general rules: clients’ money, right to rescind etc);
 - (c) section 137T (General supplementary powers);
 - (d) section 138D (Actions for damages);
 - (e) section 139A (Power of the FCA to give guidance);
 - (f) section 213 (The compensation scheme);
 - (g) section 214 (General);
 - (h) section 226 (Compulsory jurisdiction);
 - (i) section 247 (Trust scheme rules);
 - (j) section 248 (Scheme particulars rules);
 - (k) section 261I (Contractual scheme rules); and
 - (l) section 261J (Contractual scheme particulars rules);
 - (2) regulation 6 (FCA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
 - (3) the other rule and guidance making powers listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA’s Handbook.
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.
- C. The FCA consents to and approves the rules and guidance and standard terms made and amended and fixed and varied by the Financial Ombudsman Service Limited, as set out in paragraph D.

Powers exercised by the Financial Ombudsman Service Limited

- D. The Financial Ombudsman Service Limited makes and amends the rules and guidance for the Voluntary Jurisdiction and fixes and varies the standard terms for Voluntary Jurisdiction participants, as set out in Annex D to this instrument, and to incorporate the changes to the Glossary as set out in Annex A to this instrument, in the exercise of the following powers and related provisions in the Act:
- (1) section 227 (Voluntary jurisdiction);
 - (2) paragraph 8 (Information, advice and guidance) of Schedule 17;
 - (3) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
 - (4) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17.

- E. The making and amendment of the rules and guidance and the fixing and varying of the standard terms by the Financial Ombudsman Service Limited, as set out at paragraph D above, is subject to the consent and approval of the FCA.

Commencement

- F. This instrument comes into force on 2 August 2024.

Amendments to the Handbook

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

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Client Assets sourcebook (CASS)	Annex C
Dispute Resolution: Complaints sourcebook (DISP)	Annex D
Collective Investment Schemes sourcebook (COLL)	Annex E

Amendments to material outside the Handbook

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

Notes

- I. In the Annexes to this instrument, the notes (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- J. This instrument may be cited as the Dormant Assets (Collective Investment Schemes and Client Money) Instrument 2024.

By order of the Board of the Financial Conduct Authority
25 July 2024

By order of the Board of the Financial Ombudsman Service Limited
22 July 2024

Annex A

Amendments to the Glossary of definitions

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

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

eligible CIS amount an ‘eligible amount owing by virtue of a collective scheme investment’ as defined in section 9 of the Dormant Assets Act 2022, but excluding an amount within section 9(4) of the Dormant Assets Act 2022.

[**Note:** section 9(4) of the Dormant Assets Act 2022 excludes from an ‘eligible amount owing by virtue of a collective scheme investment’ an amount held in a *lifetime ISA* which, if transferred to a *dormant asset fund operator*, would result in a liability to pay a withdrawal charge to HM Revenue and Customs.]

eligible distribution of income an *eligible CIS amount* within section 9(3)(c) of the Dormant Assets Act 2022.

eligible redemption proceeds an *eligible CIS amount* within section 9(3)(b) of the Dormant Assets Act 2022.

orphan monies an *eligible CIS amount* within section 9(3)(d) and (6) of the Dormant Assets Act 2022.

unwanted asset money an *eligible CIS amount* which is an unwanted asset for the purposes of section 21 of the Dormant Assets Act 2022.

Amend the following definitions as shown.

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

dormant asset ...

(3) ...

(4) (in relation to an eligible amount owing by virtue of a collective scheme investment (see section 9(2) of the Dormant Assets Act 2022)) an eligible CIS amount which is dormant in accordance with section 10 of the Dormant Assets Act 2022.

managing dormant asset funds relevant parts of the *regulated activity* in article 63N(1)(b) of the *Regulated Activities Order* which means:

(including the investment of such funds)

(a) the acceptance of transfers of amounts as mentioned in:

(i) section 1(1)(a) or 2(1)(a) of the Dormant Bank and Building Society Accounts Act 2008; or

(ii) ~~section~~ sections 2(1)(a) or 5(1)(a), 8(1)(a) or 12(1)(a) of the Dormant Assets Act 2022; ~~and~~

...

participant firm (1) a *firm* (including a *TP firm*) other than:

...

(n) ...

(o) a dormant asset fund operator;

...

repayment claim a claim for repayment made by virtue of:

(1) sections 1(2)(b) or 2(2)(b) of the Dormant Bank and Building Society Accounts Act 2008; or ~~of~~

(2) sections 2(2)(b), ~~(3)(b)~~, 5(2)(b), 5(3)(b), 8(2)(b) and 11, 12(2)(b) or 14(2)(b) of the Dormant Assets Act 2022.

Delete the following definition. The text is not shown struck through.

dormant asset funds (1) (in relation to a *bank* or *building society*) has the meaning given in section 5(6) of the Dormant Bank and Building Society Accounts Act 2008, which is *money* paid to a *dormant asset fund operator* by a *bank* or *building society* in respect of a *dormant asset*; or

(2) (in relation to *long-term insurance contract*, and an insurance institution as defined in section 2 of the Dormant Assets Act 2022)

is *money* paid to a *dormant asset fund operator* by an *insurer* in accordance with section 2(1) of the Dormant Assets Act 2022; or

- (3) (in relation to a *personal pension scheme*, and a pensions institution as defined in section 5 of the Dormant Assets Act 2022) is *money* paid to a *dormant asset fund operator* by an *operator* of a *personal pension scheme* in accordance with section 5(1) of the Dormant Assets Act 2022.

Annex B

Amendments to the Fees manual (FEES)

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

6 Financial Services Compensation Scheme Funding

...

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

...

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

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

...

Annex C

Amendments to the Client Assets sourcebook (CASS)

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

5 Client money: insurance distribution activity

...

5.5 Segregation and the operation of client money accounts

...

Discharge of fiduciary duty

...

5.5.80 R Money ceases to be *client money* if it is paid:

...

(5) to the *firm* itself, when it is an excess in the *client bank account* as set out in *CASS 5.5.63R(1)(b)(ii)*; or

(6) to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with *CASS 5.5.85R*.

5.5.81 G ...

(4) ...

(5) A payment of *client money* under section 21 of the Dormant Assets Act 2022 to a dormant asset fund operator that has *Part 4A permission for dealing with unwanted asset money* would amount to a payment to a third party with the instruction of the *client* for the purposes of *CASS 5.5.80R(2)*.

...

5.5.84 R ...

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

5.5.85 R A *firm* may transfer a *client money* balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be *client money* under *CASS 5.5.80R(6)*, provided that the *firm* can demonstrate it took reasonable steps

to trace the *client* concerned and to return the balance prior to making such a transfer.

- 5.5.86 E (1) (a) This paragraph applies where the balance of *client money* in question is of a minimal amount. For these purposes, a ‘minimal amount’ means either:
- (i) in respect of a balance held for a *consumer*, £25 or less in aggregate; or
 - (ii) in respect of a balance held for a *commercial customer*, £100 or less in aggregate.
- (b) Where the balance of *client money* in question is of a minimal amount, taking reasonable steps in CASS 5.5.85R includes the *firm* making at least one attempt to contact the *client* to return the balance (using the most up-to-date contact details the *firm* has for the *client*) and allowing the *client* 28 days to respond.
- (2) This paragraph applies in all other cases where paragraph (1) does not apply. In all other such cases, taking reasonable steps in CASS 5.5.85R includes following this course of conduct:
- (a) determining, as far as reasonably possible, the correct contact details for the relevant *client*;
 - (b) writing to the *client* at the last known address either by post or by electronic mail to inform it of the *firm*’s intention to no longer treat the *client money* balance as *client money* and to transfer the sums concerned to a *dormant asset fund operator* if the *firm* does not receive instructions from the *client* within 28 days (naming the specific relevant *dormant asset fund operator*);
 - (c) where the *client* has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the *client* on at least one further occasion by any means other than that used in (b), including by post, electronic mail, telephone or media advertisement;
 - (d) subject to (e) and (f), where the *client* has not responded within 28 days following the most recent communication, writing again to the *client* at the last known address either by post or by electronic mail to inform them:
 - (i) that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and

- (ii) of the steps that they must take to make a *repayment claim*;
 - (e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);
 - (f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and
 - (g) waiting a further 28 *days* following the most recent communication under this *rule* before transferring the balance to the *dormant asset fund operator*.
- (3) Compliance with (1) or (2) (as applicable) may be relied on as tending to establish compliance with CASS 5.5.85R.
 - (4) Contravention of (1) or (2) (as applicable) may be relied on as tending to establish contravention of CASS 5.5.85R.
- 5.5.87 G (1) Unless the *firm* has *failed* and CASS 5.3.2R(4) or CASS 5.4.7R(4) applies (as applicable), any costs associated with a *firm* ceasing to treat unclaimed *client money* balances as *client money* pursuant to CASS 5.5.85R should be paid for from the *firm*'s own funds.
- (2) When transferring a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a *firm* will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the *client money rules* and the *client money (insurance) distribution rules*.

5.6 Client money distribution

...

Pooling and distribution

5.6.7 R If a *primary pooling event* occurs:

...

- (2) the *firm* must distribute that *client money* in accordance with CASS 5.3.2R or, as appropriate, CASS 5.4.7R, so that each *client* receives a sum which is rateable to the *client money* entitlement calculated in accordance with CASS 5.5.66R; ~~and~~

- (3) the *firm* must, as trustee, call in and make demand in respect of any debt due to the *firm* as trustee, and must liquidate any *designated investment*, and any letter of credit or guarantee upon which it relies for meeting any *shortfall* in its *client money* resource and the proceeds shall be pooled together with other *client money* as in (1) and distributed in accordance with (2): and;
- (4) (a) subject to (b), as an alternative to distributing a *client's client money* to them under (2), a *firm* may transfer all of that *client's client money* to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R; and
- (b) as a consequence of any such transfer to a *dormant asset fund operator*, the *firm* must not distribute to any other *client* an amount of *money* that would be less than that which such other *client* was entitled to have distributed under this rule.

5.6.7A G The purpose of CASS 5.6.7R(4)(b) is to ensure that where a particular *client's client money* is transferred under CASS 5.5.7R(4)(a) to a *dormant asset fund operator*, such a transfer does not prejudice any other *client*. This means, for example, that the amount that may be transferred to a *dormant asset fund operator* under that provision should take account of any *shortfall* that affects the relevant *clients*.

...

5.6.12 G ...

Closing a client money pool - transfers to dormant asset fund operator

- 5.6.12A R (1) This rule applies to a *firm* which, prior to a *primary pooling event*, had put in place contractual or other arrangements with a *dormant asset fund operator* of the sort described at section 23 of the Dormant Assets Act 2022.
- (2) If, having attempted to, a *firm* is unable to distribute a balance of *client money* in accordance with CASS 5.6.7R to the relevant *client*, it must attempt to transfer the balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R.
- 5.6.12B G (1) A *firm* may be unable to distribute a balance of *client money* in accordance with CASS 5.6.7R for reasons including that:
- (a) the *firm* is unable to trace the relevant *client*; or
- (b) despite the *firm* making enquiries, the relevant *client* has not provided the *firm* with instructions that would enable the *firm* to make a distribution.

(2) Where the *firm* transfers a balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 5.5.85R, it may cease to treat the balance as *client money* under CASS 5.5.80R(6).

(3) In attempting to transfer the balance to a *dormant asset fund operator* under CASS 5.6.12AR(2), the *firm* should begin by seeking confirmation from the relevant *dormant asset fund operator* as to whether or not it would be in a position to accept the balance.

...

7 Client money rules

...

7.11 Treatment of client money

...

Discharge of fiduciary duty

...

7.11.34 R *Money ceases to be client money* (having regard to CASS 7.11.40R where applicable) if:

...

(9) it is transferred by the *firm* to a *clearing member* in connection with a *regulated clearing arrangement* and the *clearing member* remits payment directly to the *indirect clients* of the *firm* in accordance with CASS 7.11.37R(2); ~~or~~

(10) it is paid to charity under CASS 7.11.50R or CASS 7.11.57R; or

(11) it is transferred to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 7.11.57AR.

...

Allocated but unclaimed client money

7.11.47A R CASS 7.11.48G to CASS 7.11.58G do not apply to a *firm* following a *primary pooling event*, except for CASS 7.11.57AR to CASS 7.11.57CG and CASS 7.11.58G (insofar as it is relevant to CASS 7.11.57AR).

...

7.11.57 R ...

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

7.11.57A R A firm may transfer a client money balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be client money under CASS 7.11.34R(11), provided that the firm can demonstrate it took reasonable steps to trace the client concerned and to return the balance prior to making such a transfer.

- 7.11.57B E (1) (a) This paragraph applies where the balance of client money in question is of a minimal amount. For these purposes, a ‘minimal amount’ means either:
- (i) in respect of a balance held for a retail client, £25 or less in aggregate; or
 - (ii) in respect of a balance held for a professional client, £100 or less in aggregate.
- (b) Where the balance of client money in question is of a minimal amount, taking reasonable steps in CASS 7.11.57AR includes the firm making at least one attempt to contact the client to return the balance (using the most up-to-date contact details the firm has for the client) and allowing the client 28 days to respond.
- (2) This paragraph applies in all other cases where paragraph (1) does not apply. In all other such cases, taking reasonable steps in CASS 7.11.57AR includes following this course of conduct:
- (a) determining, as far as reasonably possible, the correct contact details for the relevant client;
 - (b) writing to the client at the last known address either by post or by electronic mail to inform it of the firm’s intention to no longer treat the client money balance as client money and to transfer the sums concerned to a dormant asset fund operator if the firm does not receive instructions from the client within 28 days (naming the specific relevant dormant asset fund operator);
 - (c) where the client has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the client on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;
 - (d) subject to (e) and (f), where the client has not responded within 28 days following the most recent communication,

writing again to the *client* at the last known address either by post or by electronic mail to inform them:

- (i) that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and
 - (ii) of the steps that they must take to make a *repayment claim*;
 - (e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);
 - (f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and
 - (g) waiting a further 28 days following the most recent communication under this *rule* before transferring the balance to the *dormant asset fund operator*.
- (3) Compliance with (1) or (2) (as applicable) may be relied on as tending to establish compliance with CASS 7.11.57AR.
- (4) Contravention of (1) or (2) (as applicable) may be relied on as tending to establish contravention of CASS 7.11.57AR.

7.11.57C G When transferring a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a *firm* will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the *client money rules* and the *client money distribution and transfer rules*.

Costs associated with paying away allocated but unclaimed client money

7.11.58 G Any costs associated with the *firm* ceasing to treat unclaimed *client money* balances as *client money* pursuant to CASS 7.11.50R to ~~CASS 7.11.57R~~ CASS 7.11.57BE should be paid for from the *firm*'s own funds, including:

- (1) any costs associated with the *firm* carrying out the steps in CASS 7.11.50R(3), CASS 7.11.51G ~~or~~ CASS 7.11.57R(3) or CASS 7.11.57AR; and

...

Unwanted client money

7.11.59 G A payment of *client money* under section 21 of the Dormant Assets Act 2022 to a *dormant asset fund operator* that has *Part 4A permission for dealing with unwanted asset money* would amount to a payment to a third party with the instruction of the *client* for the purposes of CASS 7.11.34R(2)(a).

...

7A Client money distribution and transfer

...

7A.2 Primary pooling events

...

Pooling and distribution or transfer

7A.2.4 R If a *primary pooling event* occurs, then:

...

(2) the *firm* must, as soon as reasonably practicable:

(a) (subject to ~~paragraph~~ paragraphs (4) and (5)) distribute *client money* comprising a notional *pool* in accordance with CASS 7.17.2R, so that each *client* who is a beneficiary of that *pool* receives a sum which is rateable to the *client money* entitlement calculated in accordance with CASS 7A.2.5R (Client money entitlements); or

...

...

(4) ...

...

(e) ...

...

(iii) where regulation 10C(3) of the *IBSA Regulations* does not apply, that the *client* has the option of having its *money* returned to it by Firm B; and

(5) (a) subject to (b), as a further alternative to distributing a *client's client money* in a notional *pool* to the relevant *client* under CASS 7A.2.4R(2)(a) and in respect of *client money* that is not

required to be transferred under CASS 7A.2.4R(2)(b), a firm may transfer all of that client's client money in the relevant notional pool to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 7.11.57AR; and

- (b) as a consequence of any such transfer to a dormant asset fund operator, the firm must not distribute to any other client whose client money is in that notional pool, or transfer on behalf of any such other client to another person, an amount of money that would be less than that which such other client was entitled to have distributed or transferred under this rule.

7A.2.4A-3 G The purpose of CASS 7A.2.4(4)(a) and (5)(b) is to ensure that where a particular client's client money is transferred (under CASS 7A.2.4R(4) to another person for safekeeping or under CASS 7A.2.4R(5) to a dormant asset fund operator), such a transfer does not prejudice any other client. This means, for example, that the amounts that may be transferred under those provisions should take account of any shortfall that affects the relevant clients.

...

Closing a client money pool

7A.2.6A R (1) Before a firm ceases to treat a balance of client money in a notional pool as client money by transferring it to itself under CASS 7.17.2R(5) it must:

...

- (d) ~~immediately before transferring the balances of client money under paragraph (1)(c) to the firm itself, apply them towards making good any outstanding shortfall in the notional pool, and subsequently distribute or transfer them in accordance with CASS 7A.2.4R to or on behalf of clients for whom the firm is able to make such distributions or transfers.~~ carry out the actions in (i) and (ii) in the following order:

(i) attempt to transfer them to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 7.11.57AR (but this only applies if, prior to a primary pooling event, the firm had put in place contractual or other arrangements with a dormant asset fund operator of the sort described at section 23 of the Dormant Assets Act 2022); and

(ii) apply any remaining balances towards making good any outstanding shortfall in the notional pool, and subsequently distribute or transfer them in accordance

with CASS 7A.2.4R to or on behalf of *clients* for whom the *firm* is able to make such distributions or transfers.

...

...

11 Debt management client money chapter

...

11.4 Definition of client money and the discharge of fiduciary duty

...

11.4.2 R *Money ceases to be client money* if:

...

(5) it is paid to the *firm* as an excess in the *client bank account* (see CASS 11.11.12R(2) and CASS 11.11.23R(3)); or

(6) it is transferred to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R.

...

11.4.4 G ...

11.4.5 G A payment of *client money* under section 21 of the Dormant Assets Act 2022 to a *dormant asset fund operator* that has *Part 4A permission* for *dealing with unwanted asset money* would amount to a payment to a third party with the instruction of the *client* for the purposes of CASS 11.4.2R(2)(a).

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

11.4.6 R A *firm* may transfer a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be *client money* under CASS 11.4.2R(6), provided that the *firm* can demonstrate it took reasonable steps to trace the *client* concerned and to return the balance prior to making such a transfer.

11.4.7 E (1) Taking reasonable steps in CASS 11.4.6R includes following this course of conduct:

(a) determining, as far as reasonably possible, the correct contact details for the relevant *client*;

- (b) writing to the *client* at the last known address either by post or by electronic mail to inform it of the *firm's* intention to no longer treat the *client money* balance as *client money* and to transfer the sums concerned to a *dormant asset fund operator* if the *firm* does not receive instructions from the *client* within 28 days (naming the specific relevant *dormant asset fund operator*);
 - (c) where the *client* has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the *client* on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;
 - (d) subject to (e) and (f), where the *client* has not responded within 28 days following the most recent communication, writing again to the *client* at the last known address either by post or by electronic mail to inform them:
 - (i) that, as the *firm* did not receive a claim for the relevant *client money* balance, it will in 28 days transfer the balance to a *dormant asset fund operator* (naming the specific relevant *dormant asset fund operator*); and
 - (ii) of the steps that they must take to make a *repayment claim*;
 - (e) if the *firm* has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the *client* is no longer at a particular address, the *firm* should not use that address for the purposes of (d);
 - (f) if, after carrying out the steps in (a), (b) and (c), the *firm* has obtained positive confirmation that none of the contact details it holds for the relevant *client* are accurate or, if utilised, the communication is unlikely to reach the *client*, the *firm* does not have to comply with (d); and
 - (g) waiting a further 28 days following the most recent communication under this *rule* before transferring the balance to the *dormant asset fund operator*.
- (2) Compliance with (1) may be relied on as tending to establish compliance with CASS 11.4.6R.
- (3) Contravention of (1) may be relied on as tending to establish contravention of CASS 11.4.6R.
- 11.4.8 G (1) Unless the *firm* has failed and CASS 11.6.1R(3) applies, any costs associated with a *firm* ceasing to treat unclaimed *client money*

balances as *client money* pursuant to CASS 11.4.5R should be paid for from the *firm's* own funds.

- (2) When transferring a *client money* balance to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a *firm* will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the *debt management client money rules* and the *debt management client money distribution rules*.

...

11.13 Client money distribution in the event of a failure of a firm or approved bank

...

Distribution if client money not transferred to another firm

11.13.5 R ...

11.13.5A R (1) Subject to (2), as an alternative to distributing a *client's client money* to them under CASS 11.13.5R, a *firm* may transfer all of that *client's client money* to a *dormant asset fund operator* under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R.

- (2) As a consequence of any such transfer to a *dormant asset fund operator*, the *firm* must not distribute to any other *client* an amount of *money* that would be less than that which such other *client* was entitled to have distributed under CASS 11.13.5R.

11.13.5B G The purpose of CASS 11.13.5AR(2) is to ensure that where a particular *client's client money* is transferred under CASS 11.13.5AR(1) to a *dormant asset fund operator*, such a transfer does not prejudice any other *client*. This means, for example, that the amount that may be transferred to a *dormant asset fund operator* under that provision should take account of any *shortfall* that affects the relevant *clients*.

...

11.13.9 R ...

Closing a client money pool - transfers to dormant asset fund operator

11.13.9A R (1) This rule applies to a *firm* which, prior to a *primary pooling event*, had put in place contractual or other arrangements with a *dormant asset fund operator* of the sort described at section 23 of the Dormant Assets Act 2022.

(2) If, having attempted to, a firm is unable to distribute a balance of client money in accordance with CASS 11.13.5R to the relevant client, it must attempt to transfer the balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R.

11.13.9B G (1) A firm may be unable to distribute a balance of client money in accordance with CASS 11.13.5R for reasons including that:

(a) the firm is unable to trace the client; or

(b) despite the firm making enquiries, the relevant client has not provided the firm with instructions that would enable the firm to make a distribution.

(2) Where the firm transfers a balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 11.4.5R, it may cease to treat the balance as client money under CASS 11.4.2R(6).

(3) In attempting to transfer the balance to a dormant asset fund operator under CASS 11.13.9AR(2), the firm should begin by seeking confirmation from the relevant dormant asset fund operator as to whether or not it would be in a position to accept the balance.

...

13 Claims management: client money

...

13.9 Discharge of fiduciary duty

...

13.9.2 R Money ceases to be client money if:

...

(5) it is paid to the firm as an excess in the client bank account (see CASS 13.10.15R(3)); or

(6) it is transferred to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R.

13.9.3 R ...

Transfers of client money to a dormant asset fund operator under Part 1 of the Dormant Assets Act 2022

- 13.9.4 R A firm may transfer a client money balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022. If it does so the transferred balance will cease to be client money under CASS 13.9.42R(6), provided that the firm can demonstrate it took reasonable steps to trace the client concerned and to return the balance prior to making such a transfer.
- 13.9.5 E (1) Taking reasonable steps in CASS 13.9.4R includes following this course of conduct:
- (a) determining, as far as reasonably possible, the correct contact details for the relevant client;
 - (b) writing to the client at the last known address either by post or by electronic mail to inform it of the firm's intention to no longer treat the client money balance as client money and to transfer the sums concerned to a dormant asset fund operator if the firm does not receive instructions from the client within 28 days (naming the specific relevant dormant asset fund operator);
 - (c) where the client has not responded after the 28 days referred to in (b), attempting to communicate the information set out in (b) to the client on at least one further occasion by any means other than that used in (b) including by post, electronic mail, telephone or media advertisement;
 - (d) subject to (e) and (f), where the client has not responded within 28 days following the most recent communication, writing again to the client at the last known address either by post or by electronic mail to inform them:
 - (i) that, as the firm did not receive a claim for the relevant client money balance, it will in 28 days transfer the balance to a dormant asset fund operator (naming the specific relevant dormant asset fund operator); and
 - (ii) of the steps that they must take to make a repayment claim;
 - (e) if the firm has carried out the steps in (b) or (c) and in response has received positive confirmation in writing that the client is no longer at a particular address, the firm should not use that address for the purposes of (d);
 - (f) if, after carrying out the steps in (a), (b) and (c), the firm has obtained positive confirmation that none of the contact details it holds for the relevant client are accurate or, if utilised, the communication is unlikely to reach the client, the firm does not have to comply with (d); and

- (g) waiting a further 28 days following the most recent communication under this rule before transferring the balance to the dormant asset fund operator.
- (2) Compliance with (1) may be relied on as tending to establish compliance with CASS 13.9.4R.
- (3) Contravention of (1) may be relied on as tending to establish contravention of CASS 13.9.4R.
- 13.9.6 G (1) Unless the firm has failed and CASS 13.3.1R(3) applies, any costs associated with a firm ceasing to treat unclaimed client money balances as client money pursuant to CASS 13.9.4R should be paid for from the firm's own funds.
- (2) When transferring a client money balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022, a firm will need to consider its obligations under any contractual or other arrangements of the sort described at section 23 of the Dormant Assets Act 2022 in addition to meeting its obligations under the claims management client money rules and the claims management client money distribution rules.

...

13.11 Client money distribution in the event of a failure of a firm or approved bank

...

Distribution if client money not transferred to another firm

- 13.11.5 R ...
- 13.11.5A R (1) Subject to (2), as an alternative to distributing a client's client money to them under CASS 13.11.5R, a firm may transfer all of that client's client money to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R.
- (2) As a consequence of any such transfer to a dormant asset fund operator, the firm must not distribute to any other client an amount of money that would be less than that which such other client was entitled to have distributed under CASS 13.11.5R.
- 13.11.5B G The purpose of CASS 13.11.5AR(2) is to ensure that where a particular client's client money is transferred under CASS 13.11.5R(1) to a dormant asset fund operator, such a transfer does not prejudice any other client. This means, for example, that the amount that may be transferred to a dormant asset fund operator under that provision should take account of any shortfall that affects the relevant clients.

...

13.11.10 R ...

Closing a client money pool - transfers to dormant asset fund operator

- 13.11.10 R (1) This rule applies to a firm which, prior to a primary pooling event, had put in place contractual or other arrangements with a dormant asset fund operator of the sort described at section 23 of the Dormant Assets Act 2022.
- A
- (2) If, having attempted to, a firm is unable to distribute a balance of client money in accordance with CASS 13.11.5R to the relevant client, it must attempt to transfer the balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R.
- 13.11.10 G (1) A firm may be unable to distribute a balance of client money in accordance with CASS 13.11.5R for reasons including that:
- B
- (a) the firm is unable to trace the client; or
- (b) despite the firm making enquiries, the relevant client has not provided the firm with instructions that would enable the firm to make a distribution.
- (2) Where the firm transfers a balance to a dormant asset fund operator under the applicable provisions of Part 1 of the Dormant Assets Act 2022 and in accordance with CASS 13.9.4R, it may cease to treat the balance as client money under CASS 13.9.2R(6).
- (3) In attempting to transfer the balance to a dormant asset fund operator under CASS 13.11.10AR(2), the firm should begin by seeking confirmation from the relevant dormant asset fund operator as to whether or not it would be in a position to accept the balance.

...

Annex D

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

2 Jurisdiction of the Financial Ombudsman Service

...

2.3 To which activities does the Compulsory Jurisdiction apply?

Activities by firms

2.3.1 R The *Ombudsman* can consider a *complaint* under the *Compulsory Jurisdiction* if it relates to an act or omission by a *firm* in carrying on one or more of the following activities:

- (1) *regulated activities* (other than *auction regulation bidding* ~~and~~, *administering a benchmark and dealing with unwanted asset money*);

...

...

2.5 To which activities does the Voluntary Jurisdiction apply?

2.5.1 R The *Ombudsman* can consider a *complaint* under the *Voluntary Jurisdiction* if:

...

- (2) it relates to an act or omission by a *VJ participant* in carrying on one or more of the following activities:

...

- (c) activities, other than *regulated claims management activities*, activities ancillary to *regulated claims management activities*, *meeting of repayment claims* and *managing dormant asset funds* (including the investment of such funds), which (at ~~1 August 2022~~ 2 August 2024) would be covered by the *Compulsory Jurisdiction*, if they were carried on from an establishment in the *United Kingdom* (these activities are listed in *DISP 2 Annex 1G*);

...

...

...

2.7 Is the complainant eligible?

...

Eligible complainants

...

2.7.6 R To be an *eligible complainant* a *person* must also have a *complaint* which arises from matters relevant to one or more of the following relationships with the *respondent*:

...

(14A) (where the *respondent* is a *dormant asset fund operator*) subject to ~~DISP 2.7.6AR~~ DISP 2.7.6AR(1), the complainant is (or was) a *person* to whom the proceeds of a *long-term insurance contract* were payable by an *insurer*, but which instead were transferred by the *insurer* to the *respondent*;

(14B) ...

(14C) (where the *respondent* is a *dormant asset fund operator*) the complainant is (or was) a *person* to whom an *eligible CIS amount* was owing immediately before it was transferred to the *respondent* by the *authorised fund manager* or *depository* of an *authorised fund*;

(14D) (where the *respondent* is a *dormant asset fund operator*) subject to DISP 2.7.6AR(2), the complainant is (or was) a *person* for whom a *firm* was holding *client money* immediately before it was transferred to the *respondent* by that *firm*;

...

2.7.6A R (1) DISP 2.7.6R(14A) does not include proceeds of a *contract of insurance* held in a *lifetime ISA* if their transfer to a *dormant asset fund operator* resulted in (or would result in) liability to pay a *lifetime ISA government withdrawal charge*.

(2) DISP 2.7.6R(14D) does not include *client money* held in a *lifetime ISA* if its transfer to a *dormant asset fund operator* resulted in (or would result in) liability to pay a *lifetime ISA government withdrawal charge*.

...

2 **Regulated Activities for the Voluntary Jurisdiction at ~~1 August 2022~~ 2 August**
Annex **2024**

1

This table belongs to *DISP 2.5.1R*

The activities which were covered by the *Compulsory Jurisdiction* (at ~~1 August 2022~~ 2 August 2024) were:

(1) for *firms*:

(a) *regulated activities* (other than *auction regulation bidding*, ~~and~~ *administering a benchmark and dealing with unwanted asset money*);

...

...

The activities which (at ~~1 August 2022~~ 2 August 2024) were *regulated activities* were, in accordance with section 22 of the *Act* (Regulated Activities), any of the following activities specified in Part II and Parts 3A and 3B of the *Regulated Activities Order* (with the addition of *auction regulation bidding*, ~~and~~ *administering a benchmark and dealing with unwanted asset money*):

...

...

4 Standard terms

...

4.2 Standard terms

...

Application of DISP 1 to DISP 3

4.2.3 R The following rules and guidance apply to *VJ participants* as part of the *standard terms*, except where the context requires otherwise:

...

(2) *DISP 2* (Jurisdiction of the Financial Ombudsman Service), except:

...

(b) ~~*DISP 2.7.6(14)*~~ *DISP 2.7.6R(14)*;

(c) ~~*DISP 2.7.6(14A)*~~ *DISP 2.7.6R(14A)*;

(d) ~~*DISP 2.7.6(14B)*~~; ~~and~~ *DISP 2.7.6R(14B)*;

(e) *DISP 2.7.6R(14C)*;

(f) DISP 2.7.6R(14D);

(g) DISP 2.7.6AR(1); and

(h) DISP 2.7.6AR(2); and

...

...

Annex E

Amendments to the Collective Investment Schemes sourcebook (COLL)

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

3 Constitution

...

3.2 The instrument constituting the fund

...

Table: contents of the instrument constituting the fund

3.2.6 R This table belongs to *COLL 3.2.4R* (Matters which must be included in the instrument constituting the fund).

...		
		Investment in overseas property through an intermediate holding vehicle
28	...	
		<u>Transfers to a dormant asset fund operator</u>
29	(1)	<u>Where relevant, a statement that the <i>authorised fund manager</i> and (if applicable) the <i>depository</i> may transfer an <i>eligible CIS amount</i> which is a <i>dormant asset</i> to a <i>dormant asset fund operator</i>, specifying the particular types of <i>eligible CIS amounts</i> which may be so transferred.</u>
	(2)	<u>Where relevant, a statement detailing the power of the <i>authorised fund manager</i> and (if applicable) the <i>depository</i> to convert one or more <i>units</i> into a right to payment of an amount for transfer to a <i>dormant asset fund operator</i>, and a description of a <i>person's</i> right to make a <i>repayment claim</i> in relation to the amount transferred.</u>
	(3)	<u>Where relevant, a statement that the <i>authorised fund manager</i> and (if applicable) the <i>depository</i> may transfer <i>unwanted asset money</i> to a <i>dormant asset fund operator</i>, and a description of the circumstances in which such <i>money</i> may be transferred.</u>
		<u>[Note: In relation to transfers to a <i>dormant asset fund operator</i>, see <i>COLL 3.2.6AR</i>.]</u>

Transfers to a dormant asset fund operator

3.2.6A R If the *authorised fund manager* or (where relevant) the *depository* intends to make transfers of *eligible CIS amounts* that are *dormant assets* or *unwanted asset money* to a *dormant asset fund operator*, or intends to take a power of the type referred to in *COLL 3.2.6R(29)(2)*, the applicable statements in *COLL 3.2.6R(29)(1)*, (2) and (3) must be included.

...

4 Investor Relations

...

4.2 Pre-sale notifications

...

Table: contents of the prospectus

4.2.5 R This table belongs to *COLL 4.2.2R* (Publishing the prospectus).

...			
Reporting, distributions and accounting dates			
4	Relevant details of the reporting, accounting and distribution information which includes:		
	...		
	(b)	procedures for:	
		...	
		(ii)	<u>unclaimed or unwanted distributions; and, including any arrangements for the transfer of:</u>
		(A)	<u>an unclaimed <i>eligible distribution of income</i> that is a <i>dormant asset</i> (see <i>COLL 6.8.4R (Unclaimed, de minimis and joint unitholder distributions)</i>); or</u>
		(B)	<u><i>unwanted asset money</i> (see <i>COLL 6.8.4AR (Unwanted asset money)</i>); and</u>
		...	
	...		

...	
Dealing	
17	...
<u>Transfers to a dormant asset fund operator</u>	
<u>17A</u>	<u>If the authorised fund manager or the depositary of the authorised fund has a power under the instrument constituting the fund to transfer an eligible CIS amount that is a dormant asset to a dormant asset fund operator in accordance with sections 8 to 10 of the Dormant Assets Act 2022, particulars as to:</u>
	(a) <u>the types of such eligible CIS amounts which the authorised fund manager or the depositary may transfer;</u>
	(b) <u>the circumstances in which an amount in (a) is a dormant asset, and any steps that the authorised fund manager or the depositary must take before making a transfer;</u>
	(c) <u>if the authorised fund manager or the depositary has a power to convert a unit into a right to payment of an amount in accordance with section 9(3) and (5) of the Dormant Assets Act 2022, an explanation of that power, including the circumstances in which the power may be exercised;</u>
	(d) <u>the consequences for the unitholder of a transfer of an eligible CIS amount, including how the amount of a repayment claim will be determined;</u>
	(e) <u>information about the steps a person would need to take to establish and make a repayment claim, and to receive payment of the money; and</u>
	(f) <u>the basis on which a person who has made a repayment claim may apply for the repaid amount or any part of it to be reinvested in units.</u>
<u>17B</u>	<u>If the authorised fund manager or the depositary has a power under the instrument constituting the fund to transfer unwanted asset money to a dormant asset fund operator in accordance with section 21 of the Dormant Assets Act 2022, particulars as to:</u>
	(a) <u>the circumstances in which a person may inform the authorised fund manager or the depositary that they wish an eligible CIS amount to be transferred as unwanted asset money to a dormant asset fund operator;</u>
	(b) <u>how a person in (a) may obtain information from the authorised fund manager or the depositary about the</u>

		<u>procedure by which they may ask for such <i>money</i> to be transferred;</u>
	(c)	<u>the declaration that the <i>person</i> will need to make before the <i>money</i> can be transferred as <i>unwanted asset money</i>;</u>
	(d)	<u>the consequences of the <i>money</i> being transferred to a <i>dormant asset fund operator</i>; and</u>
	(e)	<u>what happens if the <i>dormant asset fund operator</i> does not consent to the transfer of the <i>money</i>.</u>
...		

...

6 Operating duties and responsibilities

...

6.2 Dealing

...

Payment for cancelled units

6.2.14 R (1) On cancelling *units* the *authorised fund manager* must, before the expiry of the fourth *business day* following the *cancellation* of the *units* or, if later, as soon as practicable after delivery to the *depository* of the *AUT* or *ACS* or the *ICVC* of such evidence of title to the *units* as it may reasonably require, require the *depository* to pay:

...

(c) in the case of a *regulated money market fund*, the sum required pursuant to article 33 of the *Money Market Funds Regulation*;²

~~to the *authorised fund manager* or, where relevant, the *unitholder* or, for a *relevant pension scheme*, in accordance with the relevant provisions of the *trust deed* or *contractual scheme deed* in accordance with (1A).~~

(1A) The *depository* must pay the amount in (1):

(a) to the *authorised fund manager*;

(b) where relevant, to the *unitholder*;

- (c) for a *relevant pension scheme*, in accordance with the relevant provisions of the *trust deed or contractual scheme deed*; or
- (d) where the amount relates to an *eligible CIS amount* that is a *dormant asset* arising from the conversion of *units* (see section 9(3)(a) of the Dormant Assets Act 2022), either:
 - (i) to the *authorised fund manager* (for onward payment to a *dormant asset fund operator*); or
 - (ii) where relevant, to the *dormant asset fund operator*.

...

...

Sale and redemption

6.2.16 R ...

(10) ...

(11) Paragraph (4) does not apply where COLL 6.2.17AR (Transfers under the Dormant Assets Act 2022) applies.

Sale and redemption: guidance

6.2.17 G ...

Transfers under the Dormant Assets Act 2022

6.2.17A R (1) This rule applies where the *authorised fund manager* or the *depository* of an *authorised fund* transfers to a *dormant asset fund operator* a *dormant asset* that is:

(a) an amount owing by virtue of the conversion of one or more *units* into a right to payment (see section 9(3)(a) of the Dormant Assets Act 2022); or

(b) *eligible redemption proceeds*.

(2) Before a transfer in (1) can be effected, the *authorised fund manager* must:

(a) take reasonable steps to reunite the relevant *eligible CIS amounts* to be transferred with their owners (see section 23 of the Dormant Assets Act 2022); and

(b) be satisfied that the *eligible CIS amount* is a *dormant asset*.

- (3) Upon effecting a transfer in (1), the *authorised fund manager* (or, where relevant, the *depository*) must ensure that such records as are specified in COLL 6.6.6R(6) (Maintenance of records) are retained.

Conversion of units into a right to payment under the Dormant Assets Act 2022

- 6.2.17B R (1) This rule applies where the *authorised fund manager* or the *depository* converts one or more *units* into a right to payment for transfer to a *dormant asset fund operator* in accordance with COLL 6.2.17AR and sections 8 to 10 of the Dormant Assets Act 2022.
- (2) On conversion of *units* into a right to payment the *authorised fund manager* or the *depository* must:
- (a) effect a *redemption of units*; and
- (b) transfer the *eligible CIS amount* to a *dormant asset fund operator*.
- 6.2.17C G (1) Section 10 of the Dormant Assets Act 2022 specifies when an *eligible CIS amount* is *dormant* and may be transferred to a *dormant asset fund operator* in accordance with the applicable provisions of the dormant assets scheme established by that Act.
- (2) An *eligible CIS amount* that is a *dormant asset* should be transferred to a *dormant asset fund operator* only as provided for in the *instrument constituting the fund* and the *prospectus*.
- (3) When taking reasonable steps to reunite owners with their *eligible CIS amounts* under COLL 6.2.17AR(2)(a), the *authorised fund manager* should comply with any arrangements it has entered into with the *dormant asset fund operator* (see section 23 of the Dormant Assets Act 2021) and have regard to industry standards of good practice.

...

6.6 Powers and duties of the scheme, the authorised fund manager, and the depository

...

Maintenance of records

- 6.6.6 R (1) ~~The~~ Subject to (5) and (6), the *authorised fund manager* must make and retain for six years such records as enable:
- ...
- (2) ~~The~~ Subject to (5) and (6), the *authorised fund manager* must make and retain for six years a daily record of the *units* in the *scheme* held, acquired or disposed of by the *authorised fund manager*,

including the *classes* of such *units*, and of the balance of any acquisitions and disposals.

...

(4) ...

(5) Where the *authorised fund manager* or the *depository* transfers an *eligible CIS amount* which is a *dormant asset* or *unwanted asset money* to a *dormant asset fund operator*, the *authorised fund manager* must retain the relevant records specified in (6) for a period of six years from the date on which:

(a) (in relation to the transfer of a *dormant asset*) the *person* to whom those records relate made a *repayment claim*; or

(b) (in relation to *unwanted asset money*) the *person* confirmed their wish for the *unwanted asset money* to be transferred.

(6) (a) Whenever an *eligible CIS amount* is transferred to a *dormant asset fund operator*, the records to be retained under (5) include:

(i) the full names of each relevant *unitholder*; and

(ii) the name of the *scheme* to which the converted *units* relate, including, where the *scheme* is a *sub-fund*, the name of its *umbrella*.

(b) Where the *eligible CIS amount* falls within section 9(3)(a) of the Dormant Assets Act 2022 (an amount owing by virtue of the conversion of one or more *units* into a right to payment), the records must also include:

(i) the number and *class* of *units* converted;

(ii) the date on which the *units* were converted and the *price per unit*;

(iii) a record of any interest due, *fees* and *charges* that would have been paid and any other adjustments (such as a *dilution levy*) in respect of the converted *units* that would affect the amount of a *repayment claim*; and

(iv) for the period beginning with the date of the conversion of *units* and ending with the date on which a *person* establishes a *repayment claim* in respect of the *units*:

- (A) in the case of a class of units which pays income, a record of the distribution rate per unit for each distribution of income paid;
 - (B) in the case of any sub-division or consolidation of units, or any mandatory conversion of units from one class to another class of the same authorised fund or sub-fund, a record of the basis of calculation for the action; and
 - (C) in the case of the cancellation of all units in the authorised fund or sub-fund under a scheme of arrangement by which new units are issued in another authorised fund or sub-fund in exchange, a record of the basis of calculation for the exchange.
- (c) Where the transfer is of eligible redemption proceeds, an eligible distribution of income or orphan monies, the records must include:
- (i) a note of whether the transfer relates to eligible redemption proceeds, an eligible distribution of income or orphan monies;
 - (ii) where the transfer is of eligible redemption proceeds, the date on which the units were redeemed;
 - (iii) where the transfer is of an eligible distribution of income:
 - (A) the distribution date, and the number and class of units to which the transfer relates; and
 - (B) the distribution rate per unit for each distribution paid;
 - (iv) the value of the relevant eligible CIS amount transferred; and
 - (v) a record of the interest due, fees and charges that would have been paid and any other adjustments that would affect the amount of the repayment claim in respect of the transferred eligible CIS amount.
- (d) Where the transfer is of unwanted asset money, the records must include:
- (i) a note that the transfer relates to unwanted asset money;

- (ii) the value of the *unwanted asset money* transferred;
- (iii) details of the *unitholder's* confirmation that they wish the *unwanted asset money* to be transferred to a *dormant asset fund operator*; and
- (iv) details of the declaration required by section 21(2)(a)(ii) of the Dormant Assets Act 2022.

...

6.8 Income: accounting, allocation and distribution

...

Unclaimed, de minimis and joint unitholder distributions

6.8.4 R (1) ~~Any~~ Unless (4) or COLL 6.8.4AR apply, any distribution remaining unclaimed after a period of six years, or such longer time specified by the *prospectus*, must become part of the *capital property*.

...

(3) ...

(4) (a) This paragraph applies where:

(i) an *eligible distribution of income* remaining unclaimed is a *dormant asset*; and

(ii) the *instrument constituting the fund* and the *prospectus* permit the transfer of such *money* to a *dormant asset fund operator*.

(b) Where this paragraph applies:

(i) the *authorised fund manager* or (where relevant) the *depository* may seek to transfer the unclaimed distribution to a *dormant asset fund operator* in accordance with the *instrument constituting the fund* and the *prospectus*; and

(ii) if the *depository* makes such a transfer, the requirement in (1) (that the unclaimed distribution becomes part of the *capital property*) does not apply.

Unwanted asset money

6.8.4A R (1) This rule applies where:

(a) an *eligible distribution of income* is *unwanted asset money*; and

(b) the instrument constituting the fund and the prospectus permit the transfer of such money to a dormant asset fund operator.

(2) Where (1) applies, the authorised fund manager or (where relevant) the depositary may transfer the unwanted asset money to a dormant asset fund operator in accordance with the instrument constituting the fund, the prospectus and section 21 of the Dormant Assets Act 2022.

...

7 Suspension of dealings, termination of authorised funds and side pockets

...

7.3 Winding up a solvent ICVC and terminating or winding up a sub-fund of an ICVC

...

When an ICVC is to be wound up or a sub-fund terminated or wound up

7.3.4 R ...

(3) An ICVC must not be wound up or a sub-fund terminated under this section:

(a) unless and until effect may be given, under regulation 21 of the OEIC Regulations, to proposals to wind up the affairs of the ICVC or to proposals to make the alterations to the ICVC's instrument of incorporation and prospectus that will be required if a sub-fund is terminated; ~~and~~

(b) unless a statement has been prepared and sent or delivered to the FCA under COLL 7.3.5R (Solvency statement) and received by the FCA prior to satisfaction of the condition in (a); and

(c) where a person may have a right to make a repayment claim under sections 9 to 11 of the Dormant Assets Act 2022 in respect of an eligible CIS amount relating to the authorised fund or sub-fund, the ACD and the depositary have ensured that any records required under COLL 6.6.6R(5) and COLL 6.6.6R(6) (Maintenance of records) are:

(i) accessible by the ACD or the depositary and will be preserved; or

- (ii) transferred to a dormant asset fund operator or to another authorised person that has undertaken to preserve them.

...

...

Manner of winding up or termination

7.3.7 R ...

- (10) Where any sum of *money* stands to the account of the *ICVC* at the date of its dissolution or a *sub-fund* at the date of its termination, the *ACD* must arrange for the *depository* to pay or lodge that sum within one *month* after that date in accordance with regulation 33(4) or (5) or (6) of the *OEIC Regulations* (Dissolution in other circumstances), where relevant, as applied by regulation 33C of the *OEIC Regulations* (Winding up of sub-funds).

7.3.7A G ...

Transfers of orphan monies to a dormant asset fund operator

- 7.3.7B G (1) Under regulation 33 of the *OEIC Regulations*, where an *ICVC* is dissolved otherwise than by the court, any sum of *money* (including unclaimed distributions) standing to the account of the *ICVC* at the date of the dissolution must be paid into court. This duty does not apply if (or to the extent that) it is transferred to a *dormant asset fund operator* as *orphan monies*.
- (2) Under the Dormant Assets Act 2022, *orphan monies* may be transferred to a *dormant asset fund operator* where they are a *dormant asset*. This means that only the proportion of outstanding *money* that is attributable pro rata to a ‘gone-away’ *person* (see section 10 of the Dormant Assets Act 2022) can be transferred as a *dormant asset*. However, a *person* with whom the *ACD* or the *depository* is still in contact could be invited to donate de minimis amounts as *unwanted asset money* for transfer to the *dormant asset fund operator* (see COLL 6.8.4AR (Unwanted asset money)).
- (3) Where a transfer of *orphan monies* to a *dormant asset fund operator* is possible in accordance with the *instrument constituting the fund*, the *prospectus* and sections 8 and 9 of the Dormant Assets Act 2022, the *FCA* would expect this to be the preferred option for the *ICVC*.

...

7.4 **Winding up an AUT and terminating a sub-fund of an AUT**

...

When an AUT is to be wound up or a sub-fund terminated

7.4.3

R ...

(1A) ...

(1B) (a) This paragraph applies where a *person* may have a right to make a *repayment claim* under sections 9 to 11 of the *Dormant Assets Act 2022*, in respect of an *eligible CIS amount* relating to the *authorised fund* or *sub-fund*.

(b) The *AUT* must not be wound up nor the *sub-fund* terminated under this section unless and until the *manager* and *trustee* have ensured that any records required under *COLL 6.6.6R(5)* and *COLL 6.6.6R(6)* (Maintenance of records) are:

(i) accessible by the *manager* or the *trustee* and will be preserved; or

(ii) transferred to a *dormant asset fund operator* or to another *authorised person* that has undertaken to preserve them.

...

Manner of winding up or termination

7.4.4

R ...

(2) In any other case falling within *COLL 7.4.3R*:

...

(c) any unclaimed net proceeds or other cash (including unclaimed distribution payments) held by the *trustee* after one year from the date on which they became payable must be paid by the *trustee* ~~into court (or, in Scotland, as the court may direct)~~; in accordance with (2A) or (2B), in either case subject to the *trustee* having a right to retain any expenses properly incurred by ~~him~~ them relating to that payment.

(2A) The *manager* must arrange for the *trustee* to transfer the unclaimed net proceeds or cash referred to in (2)(c) to a *dormant asset fund operator* in accordance with sections 8 and 9 of the *Dormant Assets Act 2022* where:

(a) the *instrument constituting the fund* and the *prospectus* permit the transfer of unclaimed net proceeds or cash as

referred to in (2)(c) to a dormant asset fund operator as orphan monies; and

(b) the manager is satisfied that the orphan monies are a dormant asset.

(2B) Where, and to the extent that, (2A) does not apply, the unclaimed net proceeds or cash (see (2)(c) above) must be paid by the trustee into court (or, in Scotland, as the court may direct).

...

7.4.4A G ...

Transfers of orphan monies to a dormant asset fund operator

7.4.4B G (1) Under the Dormant Assets Act 2022, orphan monies may be transferred to a dormant asset fund operator where they are a dormant asset. This means that only the proportion of outstanding money that is attributable pro rata to a 'gone-away' person (see section 10 of the Dormant Assets Act 2022) can be transferred in this way.

(2) However, a person with whom the manager or the trustee is still in contact could be invited to donate de minimis amounts as unwanted asset money for transfer to the dormant asset fund operator (see COLL 6.8.4AR (Unwanted asset money)).

...

7.4A Winding up a solvent ACS and terminating a sub-fund of a co-ownership scheme

...

When an ACS is to be wound up or a sub-fund of a co-ownership scheme terminated

7.4A.4 R ...

(4) An ACS must not be wound up nor a sub-fund terminated under this section unless the requirements of ~~both~~ (a), and (b) and (where relevant) (c) are satisfied:

...

(b) ...

(c) (i) This sub-paragraph applies where a person may have a right to make a repayment claim under sections 9 to 11 of the Dormant Assets Act 2022, in respect of an

eligible CIS amount relating to the authorised fund or sub-fund.

(ii) The ACS must not be wound up nor the sub-fund terminated under this section unless and until the authorised contractual scheme manager and the depositary have ensured that any records required under COLL 6.6.6R(5) and COLL 6.6.6R(6) (Maintenance of records) are:

(A) accessible by the authorised fund manager or the depositary and will be preserved; or

(B) transferred to a dormant asset fund operator or to another authorised person that has undertaken to preserve them.

...

...

Manner of winding up or termination

7.4A.6 R ...

(2) In any other case falling within COLL 7.4A.4R:

...

(c) any unclaimed net proceeds or other cash (including unclaimed distribution payments) held by the *depositary* after one year from the date on which they became payable must be paid by the *depositary* into court (or, in Scotland, as the court may direct), in accordance with (2A) or (2B), in either case subject to the *depositary* having a right to retain any expenses properly incurred by ~~him~~ them relating to that payment.

(2A) The authorised contractual scheme manager must arrange for the depositary to transfer the unclaimed net proceeds or cash referred to in (2)(c) to a dormant asset fund operator in accordance with sections 8 and 9 of the Dormant Assets Act 2022 where:

(a) the instrument constituting the fund and the prospectus permit the transfer of unclaimed net proceeds or cash as referred to in (2)(c) to a dormant asset fund operator as orphan monies; and

(b) the authorised contractual scheme manager is satisfied that the orphan monies are a dormant asset.

(2B) Where, and to the extent that, (2A) does not apply, the unclaimed net proceeds or cash referred to in (2)(c) must be paid by the depositary into court (or, in Scotland, as the court may direct).

...

7.4A.7 G ...

Transfers of orphan monies to a dormant asset fund operator

7.4A.7A G (1) Under the Dormant Assets Act 2022, orphan monies may be transferred to a dormant asset fund operator where they are a dormant asset. This means that only the proportion of outstanding money that is attributable pro rata to a 'gone-away' person (see section 10 of the Dormant Assets Act 2022) can be transferred in this way.

(2) However, a person with whom the authorised contractual scheme manager or the depositary is still in contact could be invited to donate de minimis amounts as unwanted asset money for transfer to the dormant asset fund operator (see COLL 6.8.4AR (Unwanted asset money)).

...

7.5 Schemes or sub-funds that are not commercially viable

...

Information to be provided to the FCA

7.5.2 G The information referred to in COLL 7.5.1G is listed below:

...

(9) ...

(9A) where a person who is or was a unitholder in the authorised fund or sub-fund may have a right to make a repayment claim under sections 9 to 11 of the Dormant Assets Act 2022, in respect of an eligible CIS amount relating to that authorised fund or sub-fund, details as to the steps taken by the authorised fund manager to ensure that the relevant records (see COLL 6.6.6R(5) and COLL 6.6.6R(6) (Maintenance of records)) are preserved;

...

...

7.6 Schemes of arrangement

...

Schemes of arrangement: requirements

7.6.2 R ...

Prior transfers under the Dormant Assets Act 2022

7.6.3 R (1) This rule applies where:

- (a) a scheme of arrangement is entered into in relation to a transferor fund or a transferor sub-fund;
- (b) a person who is or was at any time the authorised fund manager or (where relevant) the depositary of the transferor fund or transferor sub-fund transferred eligible CIS amounts as dormant assets to a dormant asset fund operator; and
- (c) such dormant assets are or were attributable to the transferor fund or transferor sub-fund.

(2) The authorised fund manager of the transferor fund or transferor sub-fund must ensure that under the terms of the scheme of arrangement the records required under COLL 6.6.6R(5) and COLL 6.6.6R(6):

- (a) will be properly maintained;
- (b) will be updated, where appropriate; and
- (c) will remain accessible,

so that the amount of any repayment claim can be readily calculated and verified by the appropriate person.

(3) In this rule, ‘transferor fund’ and ‘transferor sub-fund’ have the same meanings as in COLL 7.6.2R.

7.7 UCITS mergers

...

Common draft terms of merger

...

7.7.8 G ...

Prior transfers under Dormant Assets Act 2022

- 7.7.8A R (1) This rule applies where:
- (a) a person who is or was at any time the authorised fund manager or (where relevant) the depositary of a merging UCITS transferred eligible CIS amounts as dormant assets to the dormant asset fund operator; and
 - (b) such dormant assets are or were attributable to the merging UCITS.
- (2) The authorised fund manager of the merging UCITS must ensure that under the terms of the proposed UCITS merger the records required under COLL 6.6.6R(5) and COLL 6.6.6R(6):
- (a) will be properly maintained;
 - (b) will be updated, where appropriate; and
 - (c) will remain accessible,
- so that the amount of any repayment claim can be readily calculated and verified by the appropriate person.

...

Annex F

Amendments to the Perimeter Guidance manual (PERG)

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

2 Authorisation and regulated activities

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2.7 Activities: a broad outline

...

2.7.20B G ...

A

Dormant ~~account~~ asset funds

...

