

Dormant, 'orphaned' & unclaimed assets

What is the pressure on firms to act? Where's the 'burning platform'?

The Dormant Assets Commission

This Commission, which will report to Cabinet in December 2016, is reviewing dormant and unclaimed assets across all sectors. A natural target for their attention is unclaimed assets in the *asset management sector*. They are currently evaluating the nature and scale of the problem. In the absence of evidence the industry is tackling unclaimed assets, the Commission is likely to recommend a mandatory approach over which the asset management sector will have no control. *If the sector fails to act expeditiously to head off the perceived need for legislation, it may face onerous and costly requirements for ongoing client validation.*

Firms must take action immediately with other industry participants to avert adverse legislation

Because it's the right thing to do . . . and a 'ticking time-bomb'

Estimates of the scale of dormant, orphaned and unclaimed assets in UK asset managers vary from hundreds of millions to many billions of pounds. The Dormant Assets Commission's estimate of the total amount involved will become public within a few months. Many firms do not know which assets are dormant, orphaned or unclaimed; few, if any, firms have done anything systematic proactively to identify and resolve 'gone-aways'. In light of the Commission's attention, without duly diligent steps to return such assets to their rightful owners, the *reputation* of the industry will inevitably suffer further damage. If losses of relative or absolute value have arisen from firms' failures to effect proper systems to ensure ongoing contact with clients, the industry risks the emergence of a PPI-type scandal and with associated compensation claims and liabilities.

Firms must establish programmes to return assets to their rightful owners to avoid reputational fall-out and the risk of a PPI-type claims environment

Regulatory & supervisory attention

Changes to CASS rules were promulgated in July 2013, became policy in 2014 and implemented from July 2015. The FCA will increasingly enforce the 2015 client assets rules and sanction firms that fail to take action to address their unclaimed asset balances. While only known 'gone-aways' are reported to the FCA, the regulator is becoming increasingly aware of and concerned about the hidden scale of unknown 'gone-aways'. The regulator has stated clearly that it regards unclaimed asset balances as a failure of firms properly to discharge their obligations towards clients.

Firms must address their unclaimed assets before supervisors initiate punitive action

Negative auditor opinions

The major audit firms are becoming increasingly active in forcing clients to address unclaimed assets problems. Where auditors believe firms' balance sheets are misstated or their client asset management practices are lax because of failures to identify and resolve unclaimed assets, they will increasingly issue qualified or adverse opinions in CASS or financial accounts audits. Major accounting firms have already issued several qualified or adverse opinions. Such opinions will result in action by supervisors and may, ultimately, result in the need for some form of ongoing client verification review. These would be difficult and expensive for the industry to implement.

Firms should act on their unclaimed assets before auditors routinely issue qualified or adverse opinions in CASS and financial audits

Industry & competitive pressure

Industry initiatives are beginning to address the problem of unclaimed client money and assets. Some firms are already moving on dormant and unclaimed assets, focusing on finding the asset owners and returning funds to them. These firms will, inevitably, use their initiatives for marketing or reputational leverage against firms that have not moved on the issues. Firms moving before publicity grows around the problem can create opportunities for reinvestment of funds by asset owners or their estates.

Firms that move now on their unclaimed assets can seize a commercial advantage
