

## DORMANT BANK ACCOUNTS

by Angharad Southern

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New dormant bank accounts legislation has been proposed as a compulsory scheme to transfer the balances of Jersey dormant bank accounts to a 'Jersey Reclaim Fund', under the supervision of the Chief Minister's department of the States of Jersey. The Jersey Reclaim Fund has the aim of supporting several good and charitable local community causes and will be classed as a special fund with responsibilities given to the Chief Minister.

There was a consultation exercise in December 2008 which according to the States of Jersey received a positive response but was put on hold for undisclosed reasons. Similar legislation is already in place in the UK and the Cayman Islands and a consultation exercise was carried out in 2013 in Guernsey.

This legislation is not only applicable to banks regulated in Jersey, but also to any other person providing safe custody services.

### ACCOUNTS COVERED

A dormant bank account is defined as an account where no transactions have been carried out for the last 15 years, despite the account being open throughout that period. Initially, the legislation will only apply to banking cash deposits, precious stones and metals (such as those held in safe custody boxes), foreign currency and other limited classes. There will be scope to broaden the accounts covered in the future. Jewellery is specifically excluded at this stage due to its unique and irreplaceable nature.

Customers who subsequently make contact will still be able to reclaim the value of their account upon

application to the relevant bank, which can then seek a refund from the Jersey Reclaim Fund. The valuation of non-cash items therefore may prove problematic.

The draft legislation provides clarification of the relationship between dormant account legislation and claims by the Crown for assets under the customary law of bona vacantia. In effect, the Crown's claims made in Jersey through the Receiver General are preserved as the Receiver General may claim the value of any property which is bona vacantia from the Jersey Reclaim Fund.

### **IMPACT ON BANKS**

One of the benefits for banks suggested by the States of Jersey will be the removal of liabilities from their balance sheets which are not, and are not likely to be, utilised. Also, there will be a de minimis approach in customer contact prior to any transfer, with an obligation on the bank to simply contact the customer at their last known address. There may also be an administration benefit by permitting banks to close unused accounts. However, bank processes general terms and conditions may need to be amended to reflect these changes.

### **TIMING**

The transfer of dormant account balances will occur annually in December of each year. The activity status of accounts will need to be reviewed as at 30 June every year, and a notification of any transferable balances will need to be made to the Chief Minister by 30 September. If banks do not have a system in place for identifying dormant accounts, there will be a five year transitional period. However, this only applies to situations where there is no other review system available other than a manual check of all accounts. Therefore if any computerised search for dormant accounts can be made, the transitional period will not apply.

The draft legislation has been debated and passed by the States of Jersey. If approved by the Privy Council, the legislation is expected to come into force towards the end of 2016.

This article has been written by:

#### **Jersey**

#### **Angharad Southern**

Associate

+44 (0)1534 818 157

asouthern@applebyglobal.com

Angharad Southern is an Associate in the Corporate Department at Appleby. A copy of this column is available on the firm's web site at [applebyglobal.com](http://applebyglobal.com)