

## Dormant Bank Accounts

---

Summary:

A law has been prepared that would enable dormant bank accounts to be used for good causes. The aim of this consultation is to invite comments on the draft law before it is submitted to the States of Jersey for debate.

---

Date published:  
21 July 2015

Closing date:  
30 September 2015

---

Supporting documents attached:  
Dormant Bank Accounts (Jersey) Law 201-

---

### **How we will use your information**

The information you provide will be processed for the purpose of consultation. The Department of the Chief Minister will use your information in accordance with the Data Protection (Jersey) Law 2005 and the Freedom of Information (Jersey) Law 2011. Please note that we may quote or publish responses to this consultation but we will not publish the names and addresses of individuals. If you do not want any of your response to be published, you should clearly mark it

as confidential. Confidential responses will be included in any summary of statistical information received and views expressed.

#### Outline of consultation

The Assistant Chief Minister invites responses on the draft Dormant Accounts (Jersey) Law 201- (the “**Dormant Accounts Law**”). The aim of the Dormant Accounts Law is to transfer balances in “dormant” bank accounts (i.e. accounts where contact has been lost with the customer for 15 years) from banks to a central fund called the Jersey Reclaim Fund. The Jersey Reclaim Fund will be administrated by government and used to support a number of good and charitable causes in the local community.

The Dormant Accounts Law does not act to disadvantage the customer because they can still ask for their money back from the Jersey Reclaim Fund (via their bank) at any time. The bank will pay the customer their money and ask for the sum back from the Jersey Reclaim Fund.

## Ways to respond

**This consultation can be responded to electronically by the following link:**

<http://www.surveygizmo.com/s3/2242588/Dormant-Bank-Accounts>

**Write to:** James Mews  
Director, Finance Industry Development, Financial Services Unit  
Chief Minister's Department  
5<sup>th</sup> Floor, Cyril Le Marquand House  
The Parade, St Helier,  
Jersey JE48UL

**Telephone:** +44 (0) 1534 440413

**Email:** [j.mews@gov.je](mailto:j.mews@gov.je)

Responses from the finance industry may be sent to Jersey Finance at the address below:

**Write to:** William Byrne  
Head of Technical, Jersey Finance Limited  
4th Floor, Sir Walter Raleigh House

48-50 Esplanade  
St Helier  
Jersey JE2 3QB

**Telephone:** +44 (0) 1534 836021  
**Email:** [william.byrne@jerseyfinance.je](mailto:william.byrne@jerseyfinance.je)

Responses sent to Jersey Finance will be shared with Government unless the respondent indicates that they wish to remain anonymous.

This consultation paper has been sent to the Public Consultation Register.

### **Feedback on this consultation**

We value your feedback on how well we consult or seek evidence. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact [Communications.Unit@gov.je](mailto:Communications.Unit@gov.je)

## **Consultation on Dormant Accounts Law 201-**

### **Introduction**

1. The Assistant Chief Minister invites responses on the draft text of a Dormant Accounts (Jersey) Law 201- (the "**Dormant Accounts Law**"). The aim of the Dormant Accounts Law is to enable balances standing to the credit of "dormant" bank accounts (i.e. accounts where contact has been lost with the customer or where no instructions have been received from the customer for a period of at least 15 years) to be transferred from the banks to a central fund called the Jersey Reclaim Fund from which monies can be paid out to support a number of "good causes" in the local community.
2. This scheme also has advantages for banks in Jersey as it allows them to remove liabilities from their balance sheets which cannot be utilised. However, the Dormant Accounts Law does not act to disadvantage the customer because the rights of the customer are preserved. The customer can still make a claim for repayment from the Jersey Reclaim Fund (via his bank) at any time. Importantly such persons do not have to find out information about the Jersey Reclaim fund or to seek new contact details. Instead they can contact their bank and their bank will repay them their funds. The bank will in turn be entitled to ask for the monies paid out to the customer from the Jersey Reclaim Fund to ensure that the bank is not out of pocket.

### **History of the Dormant Accounts Legislation**

3. Dormant account schemes already exist in a number of jurisdictions, including the UK, Ireland and the Cayman Islands. The introduction of a dormant accounts scheme is also underway in the Isle of Man.
4. In December 2008 a consultation exercise was commenced in respect of a proposed Dormant Accounts Law. The overall response to the consultation was positive but due to other pressures, the proposal was put to one side for a time. It was also the case that the banking industry favoured moving in tandem with Guernsey and the Isle of Man. Meetings have been held with the other Crown Dependencies in order to see if a co-ordinated timetable could be achieved. However, because the other jurisdictions were at a different stage in terms of developing such legislation to Jersey a decision was made to progress the legislation in Jersey.

5. The Government of Jersey will continue to work with the other islands to try to standardise any regime across all three jurisdictions. A final draft law is now ready to be considered for adoption.

### **Summary of key aspects of the Dormant Accounts Law**

#### **The Objectives of the Jersey Reclaim Fund**

6. The Dormant Accounts Law establishes the Jersey Reclaim Fund as a special fund within the meaning of Article 3 of the Public Finances (Jersey) Law 2005. The responsibilities, duties and functions to run the dormant accounts scheme are given to the Chief Minister under Article 9 and Part 4. The responsibilities and duties focus on three areas. Firstly, to ensure that the Jersey Reclaim Fund makes payments to meet reclaims by customers; secondly to manage the Jersey Reclaim Fund appropriately so that it is able to pay claims to customers; and finally to distribute monies to good and charitable causes as set out in Part 4 of the Dormant Accounts Law.
7. As the scheme is new to Jersey, it is thought appropriate to limit the scope of the Dormant Accounts Law to banking deposits and other limited classes and then consider whether to broaden the categories at a later date. Therefore, Article 2 of the Dormant Accounts Law covers both personal and non-personal deposit accounts (i.e. accounts held for entities such as companies, partnerships and trusts) regardless of the residence of the customer.

#### **Precious metals and Precious Stones**

8. There is a small extension to the principles regarding coverage. Article 2 applies the scheme to precious metal and precious stones (but not jewellery) held in dormant safe custody arrangements, as well as such other accounts as are prescribed by Order. The decision whether to transfer such assets would be at the option of the bank (i.e. a bank may choose to transfer the proceeds of sale of precious metals and precious stones to the Jersey Reclaim Fund rather than being compelled to do so by the terms of the statute).
9. There is a precedent for the inclusion of precious metals and stones in the Cayman Islands dormant accounts scheme (under their Dormant Accounts Law 2010). It is thought that it would be helpful, in order to maximise the benefits of the scheme, for the Jersey legislation to enable Jersey banks to have the option of closing dormant safe custody facilities in which precious metals or precious stones are held.

10. Under the Cayman Islands Law, the scheme extends to “the cash from, or proceeds of sale of precious metals and precious stones (excluding jewellery) from, safe deposit boxes upon which the lease or rental period has expired”. Jewellery is excluded because the sentimental value attached to it could be significant and would be difficult to replicate in the event of a reclaim.
11. Similarly research has not revealed any dormant account scheme which extends more generally to custody accounts. This may be due to the risks involved. Precious metals or precious stones which have been sold can generally be replaced by another item of identical weight and quality. However, if the custody account contains shares and shares in a specific company are sold, there may be circumstances in which identical shares cannot be repurchased in the market. It is also possible that there may be more significant variations in the value of shares than precious metals or precious stones and this raises questions as to the exposure of a scheme to claims for repayment of the value at the date of the reclaim. Accordingly, it is not proposed to include custody accounts in the scheme for the time being. However, there is the ability to extend the Scheme by Order and it is possible for custody accounts to be prescribed at a later date.

**Question 1: Should precious stones and precious metal custody accounts be included as accounts captured by the Dormant Accounts Law?**

**Question 2: Should any other types of accounts be captured by the Dormant Accounts Law at this initial stage?**

### Test for Dormancy

12. Article 5 states the test concerning whether an account is dormant. It provides that an account will be dormant if no transactions have been carried out by or on the instructions of the customer in relation to the account for 15 years. This test follows the test set out in the United Kingdom scheme.
13. The proposal to adopt a 15 year dormancy period is consistent with the UK legislation. The research carried out in the UK indicates that a very small percentage of people reclaim monies from a scheme once 15 years has passed. A shorter period would lead to an increased possibility of claims for repayment. Accordingly, allowing banks to apply a different (shorter) period would be likely to cause inefficiencies for the Jersey Reclaim Fund by leading to increased numbers of reclaims and administrative activity. Therefore the draft legislation follows the UK precedent concerning the length of time for an account to be considered dormant.
14. Accounts will be included in the scheme even if their period of dormancy commenced prior to the introduction of the Law. However, transitional provisions will allow banks time to update their systems where they do not have adequate systems in place for such purposes. These transitional provisions are considered further in this paper.
15. Article 5 contains an exception from the UK test for dormancy as a result of the consultation on the principles of the proposed Dormant Accounts Law. It is drafted to ensure that an account will not be considered dormant if the bank holds other accounts for the same customer and there are transactions on those accounts. Likewise, an exception for fixed term accounts is set out in Article 5 so that the dormancy period for such accounts will only begin at the end of the fixed term period. In the case of fixed term periods that have a "roll over" facility the clock will start for the test of dormancy at the end of the first period and at the time that the initial fixed term ends.
16. "No-mail" accounts will be included in the scheme provided that they meet the criteria for dormancy. Although "no-mail" accounts fall outside of the UK dormant accounts regime they are included in the Irish scheme. The draft in Jersey follows the Irish approach although it is thought that the number of "no-mail" accounts is likely to be small, as it is understood that they do not exist other than in exceptional circumstances. It is thought that the administrative difficulties caused by special treatment being given to such

accounts may be disproportionate to the benefits.

**Question 3: Should the period of dormancy match the period of dormancy in the UK?**

**Question 4: Should the definition of dormancy vary from the UK definition by not including accounts if there are transactions on those accounts?**

**Question 5: Should “no-mail” accounts be included in the scheme?**

#### **Balance of an account**

17. Article 3(1) provides that the balance of a customer's account for the purposes of the Dormant Accounts Law will be the amount owing to the customer at that particular time after appropriate adjustments such as interest due, fees and charges payable as at that date. Article 3(3) exempts balances in accounts which are covered by security interests taken under Jersey law over accounts. The reason for this exemption is that if an account is subject to a security interest then the account may not be able to be operated under the provisions of the security granted and therefore such accounts should not be classed as dormant.

#### **Transfer of balances and the Jersey Reclaim Fund**

18. Article 6 provides for the mechanism for the transfer of the dormant balances to the Jersey Reclaim Fund. The Jersey Reclaim Fund will be a separate fund which, to minimise costs, will be held and managed (but not distributed) by Treasury (see below for further details about the distribution of the monies from the Jersey Reclaim Fund).

19. It is proposed that banks will transfer dormant balances to the Jersey Reclaim Fund annually, in December of each year. Prior to the transfer there is a process that needs to be undertaken in order to ensure that the Minister has the opportunity to decide whether to decline deposits if accepting them would cause difficulties. The Minister would normally agree to all transfers and is only likely to decline such transfers if there are anti-money laundering, countering the financing of terrorism or sanctions issues, or exceptionally if a balance or series of balances are so large that they would distort the profile of the dormant balances in the Jersey Reclaim Fund.



20. In such circumstances they could not be utilised for good causes because of the risk that if the account holder were to reclaim the money there would be insufficient sums in the Jersey Reclaim Fund to repay the balance (see Article 6(7)).
21. Article 1 defines the end of each relevant year as 30 June. Article 6(1) requires banks to notify the Minister within 3 months (by 30 September) of the number and balances of dormant deposit accounts and a description of other relevant accounts (which are currently limited to safe custody accounts containing precious metal and precious stones).
22. Article 6(3) grants the power for the Minister to prescribe the form or content of the notification return and, separately to this consultation paper, discussion is taking place with the banks concerning the content of this return. It is envisaged that the return should include a statement from the bank that, except to the extent disclosed, it has no unresolved concerns regarding money laundering or terrorist financing in respect of the balances to be transferred and (to the best of its knowledge) none of the account holders are individuals in respect of whom sanctions apply.
23. Under Article 6(5) the Minister may ask for more information from a bank about the notified accounts and the bank must respond within 1 month to the Minister's enquiries. The Minister will then have until the 30 November each year to decide if he wants to refuse to accept the transfer of the funds.
24. A question that was considered is what efforts should be made to contact the customer and how such contact should be made. This is a complicated issue. If the customer has not corresponded from the last known address it may be the case that this address is out of date. However, this is not always the case and the address may be the only contact details that a customer has given the bank in order to enable the bank to make contact.
25. As a matter of policy it is considered appropriate to require each bank to take some action to contact customers. While not a perfect solution, it is considered appropriate to mandate that a bank attempts to contact the customer one last time at the last known address in order to notify them that the account is going to be transferred to the Jersey Reclaim Fund. This is a *de minimis* process which is set out in Article 6(1)(c). The exact details and depth of the search beyond this requirement is not specified in the legislation and it is left to the banks to decide what is appropriate according to the facts of each case.

26. If the account holder notifies the bank during the notification process then the account should not be considered dormant and should not be paid across to the Minister. Article 6(6) gives a cut off time of 30 November in each year for this notification to take place in order to allow the bank the opportunity to pay across dormant accounts to the Jersey Reclaim Fund during the month of December.
27. The process for reclaims from the Jersey Reclaim Fund is discussed further below. It is proposed that all transfers will be made to the Fund on a gross basis. It is understood from the experiences of the Reclaim Fund in the UK that any “netting” could lead to accounting challenges as to whether balances have been properly transferred and may not enable the bank to remove the relevant account from its balance sheet.

**Question 6: Should there be a requirement on a bank to send a notice to the last known address, once an account is identified as dormant, in order to attempt to protect customers, by notifying them that their account is being transferred to the Jersey Reclaim Fund?**

#### **Non-sterling accounts**

28. Government has considered is whether accounts that are held in currencies other than pound sterling should be included in the scheme. As one of the aims of the scheme is to maximise the monies that can be used for good and charitable causes, it would appear appropriate to include such accounts provided that the consequent currency risks can be managed. Accordingly, Article 2(1)(a) does not limit the scope of the law only to sterling accounts. But there is a practical issue concerning the ability to manage non-sterling currencies in the Jersey Reclaim Fund. It has been indicated by the Treasury Department (who it is proposed will manage the Jersey Reclaim Fund on a day to day basis) that it can only hold limited currencies under the agreed mandate and that trading on multiple accounts would reduce economies of scale.
29. Accordingly, it is proposed that the Minister should accept only pound sterling balances. Accordingly, Article 7(2) states that if a dormant account consists of money in a currency other than sterling the banks should

convert the balance into sterling before the transfer at the market mid-rate on the day of the conversion.

30. An issue that follows this proposal is how to manage fluctuations in value following the transfer to the Jersey Reclaim Fund when the monies in a foreign currency balance transfers are held in sterling. The effect of fluctuations in the exchange rate could be positive or negative. An account holder that wishes to reclaim their balance is unlikely to complain if the sum is increased as a result of the currency fluctuation but might complain if the sum is decreased as a result. A policy decision is required over whether the risks arising from currency fluctuation should be borne by the account holder or the Jersey Reclaim Fund.
31. It is considered appropriate to protect the Jersey Reclaim Fund against the risk of currency fluctuations rather than the customer. The relevant accounts have been left dormant for 15 years and the account holder has not responded to a notification of the imminent transfer of their account to the Jersey Reclaim Fund. However, in such circumstances it also seems appropriate for the banks to take reasonable steps to make the customer aware of the risks in converting dormant account balances into pounds sterling.
32. This paper has previously referred to the practical difficulties in communicating with an account holder of a dormant account. The Dormant Accounts Law requires the bank to notify the account holder at the last known address given by the customer as the address for communication. Therefore, in line with this policy it is considered appropriate that the notification sent by the banks to their dormant account holders immediately before such accounts are transferred should set out the risks of conversion into pounds sterling where an account is a non-sterling account.
33. Article 8(6) implements the aim of protecting the Jersey Reclaim Fund by stating that the customer is only entitled to reclaim payment of the value in pounds sterling as at the date of conversion under Article 7(2). Article 8(4) also states that customers will not be entitled to interest in respect of a transfer of the balance or part of the balance of an account to the Jersey Reclaim Fund unless the Minister prescribes otherwise.

34. The consequence of these provisions are that, if a claim is made for repayment in respect of a foreign currency balance, the bank acting as the agent of the Jersey Reclaim Fund will only be liable to repay the equivalent amount in pounds sterling following the conversion and transfer to the Jersey Reclaim Fund.

**Question 7: Should non-sterling accounts be included in the scheme?**

**Question 8: Should the Jersey Reclaim Fund, the bank or the account holder bear the risk of currency fluctuation?**

#### **Compulsory or Optional**

35. One of the issues considered was whether the scheme should be compulsory or optional for the transfer of dormant accounts to the Jersey Reclaim Fund.
36. Arguments could be advanced that it should be up to each bank to decide whether to utilise the scheme as the monies have been placed with the bank not the States of Jersey. Arguments in favour of this position include that there may be situations where the historic nature of documentation coupled with bank mergers means that a bank is unable to ascertain whether an account is dormant or the extent of the terms of the account. Others may consider that the banks will do “the right thing” with monies that they are not able to utilise for profit and, accordingly, that there is no need to make the scheme compulsory. Such an approach would also allow each bank to decide on the optimal point of timing in phasing in IT systems in order to track dormant accounts in accordance with the legislation rather than different policies that have been adopted by each bank.
37. However, the counter argument is that there is a strong public interest in ensuring that the scheme is effective and has the greatest degree of coverage in order to maximise the amount of funds that are placed into the Jersey Reclaim Fund. As the monies raised and placed into the scheme are to be utilised for good causes it would seem to be at odds with public policy if such a scheme were not to be made compulsory in the absence of compelling reasons. Having a compulsory scheme would also negate the risk that banks would delay putting the necessary infrastructure in place for longer.

38. Accordingly the Dormant Accounts Law makes the Jersey scheme compulsory, subject to appropriate transitional provisions, so all banks registered by the Jersey Financial Services Commission for the conduct of deposit-taking business will be required to participate. Accordingly, Article 6(8) contains the key provision that a bank must transfer such part of a dormant account that is an account under Art 2(1)(a) namely, an account held by a bank as part of its activity of accepting deposits.

**Question 9: Should payment of balances into the Jersey Reclaim Fund scheme be compulsory or optional?**

**Question 10: If optional, do you think that there is a risk that the sum of the balances transferred will be less than if the scheme was compulsory?**

#### **The interface with the customer**

39. The Jersey Reclaim Fund will be set up with a minimal cost base in order to maximise the monies paid to beneficiaries. It is proposed that the scheme is run by the Chief Minister, his staff and well as utilising the experience and resources of the Treasury and Resources department but that it will have no solely dedicated personnel or independent infrastructure. The reasons for this proposal include that it is appropriate for banks to maintain the relationship with their own customers. Accordingly, the legislation is drafted to enable each bank to act as the agent of the Jersey Reclaim Fund in respect of matters such as customer relationship management, record-keeping, customer claims for repayment and any dispute or complaint from the customer (including any legal and regulatory compliance aspects).

40. For a customer who wishes to reclaim the monies placed with a bank they will need to contact their bank and fill in the requisite forms. On being satisfied that the person is the owner of the account and that there are no legal or regulatory reasons to the contrary, the bank will restore access to the banking facility or transfer the monies to the customer. The bank will then be able to reclaim the funds that were previously transferred to the Jersey Reclaim Fund.

41. This relationship between the bank and the scheme is facilitated in the UK through individually negotiated agency agreements signed by each bank. It

seems that such a process is lengthy and costly. Accordingly, the Dormant Accounts Law is designed to enable a simpler and more efficient approach.

42. Article 10 of the Dormant Accounts Law sets out the duties of the bank in respect of the monies transferred to the Fund. Article 10(1) states that the bank must retain records, receive claims for payment, verify claims, calculate the amount that must be paid, determine entitlement, and pay out the amount determined.
43. Article 10(4) enables the Minister to make further provision by Order for the purposes of achieving the functioning of this system. The requirements set out in Article 10 are supplemented by Article 18(1) which states that a bank acts as the agent of the Minister in respect of claims for repayments out of the Jersey Reclaim Fund, client relationships, record keeping, and the fulfilment of any legal or regulatory obligations arising out of a bank's client relationship.
44. Article 18(2) allows more detailed terms of the relationship between the bank and the Jersey Reclaim Fund to be set out in an Order. The terms of the Order will be subject to consultation with the banking industry prior to its implementation. Having legislation that sets out the key terms of all the agency arrangements will avoid each bank having to enter into separate agency agreements with the Minister (on behalf of the Jersey Reclaim Fund) thereby reducing costs and ensuring a consistent approach where such is appropriate.
45. Article 18(5) states that the agency arrangement will be binding on any liquidator or trustee in bankruptcy and, on any successor of the bank. In order to preserve the ability of a customer to go to the liquidator or agent of a bank that is being closed or has closed and to reclaim their monies, Article 14(5) requires the bank to appoint an agent in Jersey to deal with such matters including record-keeping for a 10 year period after the completion of the closure.
46. After 10 years has passed cases will be dealt with on a case by case basis. Where a branch has simply closed in Jersey the customer can still contact the head office overseas to seek repayment. Where the legal entity has been dissolved the Minister still retains the power to pay out claims where there is sufficient evidence produced by the customer.

**Question 11: Can respondents think of any scenarios where issues may arise through the bank acting as the agent of the Jersey Reclaim Fund?**

**Question 12: Are the terms of the agency agreement sufficient and comprehensive for the purpose of protecting the Jersey Reclaim Fund?**

**Liability to the customer**

47. Article 8 provides that when a dormant account balance is transferred to the Jersey Reclaim Fund, the liability for repayment of the balance transfers to the Jersey Reclaim Fund. This general principle is subject to the fact that the bank will continue to have the administrative responsibility for dealing with and settling claims in the first instance. Article 8(2) provides for the transfer of the liability and clarifies that there is no longer a debt owed by the bank to the customer. This provision allows the bank to derecognise the liability for balance sheet purposes.
48. The consequences of Article 8 include that the Jersey Reclaim Fund will only be liable to repay to the customer the amount that it receives from the bank (other than monies received in respect of precious stones and metals where the bank is permitted to be reimbursed for the reasonable costs of sale). If, for example, the bank has miscalculated the amount transferred or if there is a dispute with the customer as to the amount of interest that should have been applied, then any amount exceeding the balance transferred to the Fund will remain the liability of the bank.
49. Experience gained from other jurisdictions demonstrates that there may be disputes concerning what interest rate is applicable to a dormant account balance. To avoid such occurring, Article 8(3) states that customers will not be entitled to interest unless the Minister specifies that a particular rate is applicable by way of Order to the balances post-transfer. In the absence of an Order being passed, interest will not accrue on balances transferred to the Jersey Reclaim Fund. As the terms of many accounts will permit the bank to reduce the rate of interest to zero after a period of time it would be a justifiable to set the rate of interest payable by the Jersey Reclaim Fund at zero. That would permit the proceeds of the balance post transfer to be utilised for good causes maximising the benefit that could be gained from dormant accounts.

**Question 13: Is it reasonable that the level of interest to be added on dormant accounts after transfer to the Jersey Reclaim Fund is set at zero and the proceeds used for good causes? If not, what is an appropriate level of interest?**

### **Timing of Transfers**

50. Article 6 of the Dormant Accounts Law sets out the timing of transfers to the Jersey Reclaim Fund. The year end is set as 30 June in each year. Within 3 months of the year end, namely by 30 September, banks must give notice to the Minister of the number and balance of each dormant account. In respect of other types of dormant accounts, Article 6(1)(b) states that banks must give a description of each account to the Minister in order to ensure that the Minister is aware of the value that is being held in other relevant types of dormant account. Unless the Minister prescribes other types of account, this provision applies to custody accounts holding precious metals and precious stones and the figure given may be an estimate of the current value or the last known valuation.
51. In this same 3 month period, under Article 6(1)(c), banks must give notice to the customers with dormant accounts that their account has become dormant in order to give them a chance to claim the amount prior to transfer.
52. After this 3 month window to allow banks the time to notify customers and calculate which accounts are dormant, Article 6(6) gives the Minister 2 months to decide if he wishes to refuse to accept the transfers. There may be good reasons why it is not in the best interests of the scheme to do so, for example, because of high individual balances. The issue with high balances is that if they constitute a large part of the Jersey Reclaim Fund then there is the prospect that they cannot sensibly be utilised for good causes. The reason is due to the comparative size of the balances. If large balances were to be reclaimed there might not be enough monies in the Jersey Reclaim Fund to meet the demands.
53. The Minister may have further questions concerning the accounts held and, if further questions are asked of a bank, Article 6(5) gives the bank a further month to respond. Following the end of the periods of notification and then for the Minister to decide whether to refuse the balances, the bank has the month of December to pay monies across to the Minister under Article 6(8).



**Question 14: Are the time scales proposed reasonable in order to allow customers to contact their bank and for banks to process the administration of transfers?**

**Question 15: Should the banks be required to report balances in relation to precious metals and precious stones? If not, then please give reasons?**

#### **Customer reclaims**

54. As set out above, it is proposed that customer claims will be handled by the banks acting as the agent of the Jersey Reclaim Fund. This policy is consistent with the schemes operating in the UK and Ireland.
55. For administrative simplicity, Articles 11 and 12 have the effect that banks will make an annual claim for reimbursement of the amounts reclaimed by customers from the Jersey Reclaim Fund. This will be within the same 3 month period in which they notify the Jersey Reclaim Fund of the accounts that have become dormant in the last year. It is thought that such a repayment process should not normally give rise to any significant adverse impact on the banks as the amounts involved are likely to be *de minimis* from a balance sheet perspective.
56. A bank will, however, be able to seek reimbursement of a single customer claim of a particularly large amount or a particularly large number of individual customer claims at any time. In such cases, reimbursement may be made outside of the annual cycle at the discretion of the Minister, as set out in Article 12(4).

**Question 16: Is the proposed mechanism for the Jersey Reclaim Fund to reimburse the banks sufficiently practical?**

### **Distribution of monies from the Jersey Reclaim Fund**

57. Article 19 of the Dormant Accounts Law sets out the proposed uses of the Jersey Reclaim Fund. The provisions permit monies to be used to cover the costs of the Commissioner of Charities and other related expenses under the Charities (Jersey) Law 2014. Further, they permit monies from the Jersey Reclaim Fund to be distributed in shares to be set by Order for the following purposes:

- a. arts;
- b. sport;
- c. the heritage of Jersey;
- d. charitable purposes; and
- e. purposes connected with health, education or the environment.

58. To achieve efficiencies it is envisaged that the Minister will not generally distribute to good and charitable causes directly. Instead the Minister may distribute the monies to designated community organisations who will make grants from monies provided by the Jersey Reclaim Fund. In such cases, the Minister will require distributing bodies to report each year on the entities who have received funding and the relevant amounts.

59. Each year under Article 9(2) the Minister must prepare an annual report on the operation of the Dormant Accounts Law.

**Question 17: Do you agree with the proposed use of the funds generated by the Dormant Accounts Law? If not please state what you would suggest as an alternative. For example, should the funds be divided proportionally or thematically sector by sector?**

### **Timing and Transitional Provisions**

60. Following the end of this consultation period, the next steps are for the responses to be analysed and the final amendments made to the Dormant Accounts Law. Then the final legislation will be lodged in late 2015, debated by the States of Jersey and, if passed, will be sent for approval by the Privy Council which is likely to be in early 2016.

61. Article 29 sets out transitional provisions in order to give a reasonable period of time for banks to develop systems if they do not already have systems that can identify dormant accounts under the proposed definition in the Dormant Accounts Law. For example, a bank may have a system that recognises accounts as dormant after a shorter period of time than 15 years. If that system cannot flag up accounts that have been dormant for 15 years without a manual check, then the provisions permit the bank to wait for the remainder of the 15 years to pass before the balances are classed as dormant. For example, a bank may have a dormant period of 7 years in its internal systems and those systems may not be able to identify the exact period of dormancy over 7 years for the dormant accounts. The transitional provisions enable the bank to wait a further 8 years (15 years minus the 7 years already recorded) until the accounts are classed as dormant.

62. Where the bank has no computerised system in place that identifies dormant accounts that are 15 years old then the transitional provisions give the bank 5 years from the coming into force of Article 6 to build a system.

63. However, where a bank wishes to identify accounts as dormant and pass them to the Jersey Reclaim Fund immediately once the Law comes into force then this will be possible at the discretion of the Minister.

**Question 18: Is the proposed timescale for banks to build systems too long, too short or about right? If your answer is that the timescale is too long or too short please state what length of time is considered appropriate?**

**Question 19: If you are a bank, please state:**

**a) What test do you currently apply in determining whether an account is dormant? Please include the length of time that must pass in order for you to class an account as dormant.**

**b) Are your systems able to produce a report identifying a list of accounts where there have been no transactions on each account for 15 years? If you are able to produce such a report in respect of a shorter period of time then please state what this period of time is.**

**c) Are your systems able to produce a report identifying a list of accounts where there has been no transactions on each account and no contact from the clients holding those accounts for 15 years? If you are able to produce**

such a report in respect of a shorter period of time then please state what this period of time is.

d) Are your systems able to produce a report identifying a list of accounts where there have been no transactions on each account and no activity on another account held by the same customer for 15 years? If you are able to produce such a report in respect of a shorter period of time then please state what this period of time is.

e) If your answer to the first part of the question in either 19 b), 19 c) or 19 d) is no, please state an estimate of the cost to amend your systems to be able to produce the reports set out in b), c) and d) and the time that it would take to implement such a change?

f) If there is any other information about your systems which would be relevant to a decision on the proposed implementation time as set out in the transitional provisions please give comments?

## Questions

Readers of the consultation paper are invited to give their comments on all aspects of the draft of the Dormant Accounts Law.

Particular questions as stated above are:

**Question 1: Should precious stones and precious metal custody accounts be included as accounts captured by the Dormant Accounts Law?**

**Question 2: Should any other types of accounts be captured by the Dormant Accounts Law at this initial stage?**

**Question 3: Should the period of dormancy match the period of dormancy in the UK?**

**Question 4: Should the definition of dormancy vary from the UK definition by not including accounts if there are transactions on those accounts?**

**Question 5: Should “no-mail” accounts be included in the scheme?**

**Question 6: Should there be a requirement on a bank to send letters to the last known address, once an account is identified as dormant, in order to attempt to protect customers by notifying them that their account is being transferred to the Jersey Reclaim Fund?**

**Question 7: Should non-sterling accounts be included in the scheme?**

**Question 8: Should the Jersey Reclaim Fund, the bank or the account holder bear the risk of currency fluctuation?**

**Question 9: Should payment of balances into the Jersey Reclaim Fund scheme be compulsory or optional?**

**Question 10: If optional, do you think that there is a risk that the sum of the balances transferred will be less than if the scheme was compulsory?**

**Question 11: Can respondents think of any scenarios where issues may arise through the bank acting as the agent of the Jersey Reclaim Fund?**

**Question 12: Are the terms of the agency agreement sufficient and comprehensive for the purpose of protecting the Jersey Reclaim Fund?**

**Question 13:** Is it reasonable that the level of interest to be added on dormant accounts after transfer to the Jersey Reclaim Fund is set at zero and the proceeds used for good causes? If not, what is an appropriate level of interest?

**Question 14:** Are the time scales proposed appropriate to allow customers to contact their bank and for banks to process the administration of transfers?

**Question 15:** Should the banks be required to report balances in relation to precious metals and precious stones? If not, then please give reasons?

**Question 16:** Is the proposed mechanism for the Jersey Reclaim Fund to reimburse the banks sufficiently practical?

**Question 17:** Do you agree with the proposed use of the funds generated by the Dormant Accounts Law? If not please state what you would suggest as an alternative. For example, should the funds be divided proportionally or thematically sector by sector?

**Question 18:** Is the proposed timescale for banks to build systems too long, too short or about right? If your answer is that the timescale is too long or too short please state what length of time is considered appropriate?

**Question 19:** If you are a bank, please state:

a) What test do you currently apply in determining whether an account is dormant? Please include the length of time that must pass in order for you to class an account as dormant.

b) Are your systems able to produce a report identifying a list of accounts where there have been no transactions on each account for 15 years? If you are able to produce such a report in respect of a shorter period of time then please state what this period of time is.

c) Are your systems able to produce a report identifying a list of accounts where there has been no transactions on each account and no contact from the clients holding those accounts for 15 years? If you are able to produce such a report in respect of a shorter period of time then please state what this period of time is.

**d) Are your systems able to produce a report identifying a list of accounts where there have been no transactions on each account and no activity on another account held by the same customer for 15 years? If you are able to produce such a report in respect of a shorter period of time then please state what this period of time is.**

**e) If your answer to the first part of the question in either 19 b), 19 c) or 19 d) is no, please state an estimate of the cost to amend your systems to be able to produce the reports set out in b), c) and d) and the time that it would take to implement such a change?**

**f) If there is any other information about your systems which would be relevant to a decision on the proposed implementation time as set out in the transitional provisions please give comments?**