COMMUNITY WEALTH FUND – IMPLEMENTATION

EXECUTIVE SUMMARY

The Community Wealth Fund Alliance, representing over 460 civil society interests, has put forward innovative proposals for a £2bn Community Wealth Fund (CWF) to transform left behind communities. The fund would build social capital, enabling local people to design services and facilities to fit their particular needs. Over time it could radically improve their neighbourhoods and quality of life.

The CWF would be created using a new tranche of dormant assets held by financial institutions. This would build on the success of the existing system for dormant bank accounts created by legislation in 2008, but extend it to pensions, annuities, life insurance, dividends, shares and bonds for which no owner can be traced.

The broad outlines of how the CWF would operate are already clear. They have been set out in major documents produced by the Alliance, and there are very strong precedents in the Big Local programme run by Local Trust since 2012. Work has also been done by Oxford Consultants for Social Inclusion (OCSI) on the selection of left behind areas suitable for the CWF interventions. Nevertheless, the Alliance proposes to create a senior Task Force to refine the policy and details of the CWF as it develops, using skills from civil society, charities, government, and business.

This report is concerned with implementation – how the CWF can be introduced at pace once the Government has given the go ahead for the expansion of the dormant assets scheme and the use of the proceeds to fund the CWF. It deals in particular with two key areas: funding and administration.

The existing dormant assets scheme for bank and building society cash accounts is governed by the Dormant Bank and Building Society Accounts Act 2008. Accounts which have been abandoned for at least 15 years can be transferred to a specially established company, Reclaim Fund Limited. This body retains a prudent proportion of assets to meet claims from owners who come forward after transfer. The balance is transferred to the National Lottery Community Fund, which passes it on to four Operating Companies who each fulfil one or more of the social and environmental purposes under the Act. The Oversight Trust is a separate body which ensures that the Operating Companies stay true to their objects and are managed efficiently and effectively.

The Government introduced a new Bill – the Dormant Assets Bill – into the House of Lords in May 2021 to implement the proposals for collecting new classes of dormant assets. As introduced, the Bill allowed the Government to expand, by statutory instrument, the purposes for which resources from dormant assets could be used in England beyond those set out in the 2008 Act but did not go further than that.

The Bill completed its passage through the Lords in November 2021 and was introduced into the House of Commons. While in the Lords, it was amended to include an explicit power for the Secretary of State to establish a Community Wealth Fund or multiple funds on a pilot basis.

This report recommends that the Government now sets up a high-level implementation group with the industry, chaired by either a Minister or a senior official, preferably from the Treasury given its lead role in relation to the industry. The aim of the group would be to encourage the fastest and widest possible take up of involvement in the expanded scheme. This is particularly important given that the scheme is voluntary for financial institutions; that a wide range of new bodies would be involved in the expanded scheme; and that the new classes of assets involve more complex issues than simple cash deposits.

However, it will take a substantial period to complete the legislation, to set up the extended dormant assets scheme and for the new resources to flow through to any Community Wealth Fund. It would therefore be highly desirable to access other sources of funds to make an early start with the CWF, building real momentum in the short term. This report discusses various possible sources of funds, including the existing dormant assets scheme, the National Fund (a nearly £600m fund built from private donations with the aim of paying off the national debt) and interim funding from the Exchequer.

The development of the new dormant assets scheme could then proceed in parallel with creation of the CWF.

In terms of administration for the extended dormant assets scheme, this report suggests building on the machinery of the existing scheme. Cash raised from dormant assets would be transferred to Reclaim Fund Limited, which would make prudent provision to meet claims from owners who come forward after transfer. The balance would be passed to the National Lottery Community Fund and from there to a new body, here called (for convenience) the Community Wealth Fund Trust. The Oversight Trust would provide assurance about the new arrangements as it does for the existing Operating Companies.

The Community Wealth Fund Trust would be crucial to the success of the CWF. The report contains proposals to establish it, including recommendations on corporate structure, arrangements for recruiting a Chair and Board of Directors and subsequently a Chief Executive and core staff.

Finally, the report sets out two possible timelines for implementing the CWF. If funding relies entirely on an expanded dormant assets scheme, then practical implementation is dependent on the Dormant Assets Bill becoming an Act, on subsequent commencement and consultation on the use of funds, and on the practicalities of identifying and collecting dormant assets. At the earliest, the CWF Trust could be in operation in Autumn 2024 for preparatory action, with real impacts on the ground in left behind areas beginning to come through in Autumn 2025. But if early funding can be brought forward then a much earlier start will be possible. The set-up phase of the CWF might run during 2023 and be in full operation by Spring 2024. This is some 18 months earlier than under the first option.

The key steps needed to implement the CWF once the Dormant Assets Bill has completed its passage through Parliament are set out on the next two pages, supported by detailed material in the main body of this paper.

IMPLEMENTATION OF THE CWF – KEY STEPS

This list sets out the key steps necessary to establish the expanded dormant assets scheme and to implement the Community Wealth Fund once the current Dormant Assets Bill has been enacted.

- **Statutory Instruments to establish the extended scheme:**
    - Commencement Order
    - Oder on distribution between countries of the UK
    - Order(s) on technical issues related to new classes of assets
    - Tax regulations (if needed)

- **Consultation on new uses for funds from dormant assets, including CWF:**
    - Launch of consultation document
    - 3 months for responses
    - Announcement on conclusions following consultation

- **Statutory Instrument on new uses for funds:**
    - Consultation on a draft with the Big Lottery Fund
    - Affirmative resolution procedure in Parliament

- **High level implementation group with the financial services industry:**
    - Focused on the fastest possible implementation of the extended dormant assets scheme
    - Chaired by a Government Minister or senior official, preferably from the Treasury
    - Incorporating senior representatives of the financial service industry, and at least one representative of civil society interests

- **Discussion with the bodies currently involved in administration of the dormant assets scheme to expand their roles under the new scheme:**
    - Reclaim Fund Limited to act as the sole reclaim fund for dormant assets (already Government policy)
    - National Lottery Community Fund to act as distributor of funds released for good causes, including the CWF
    - The Oversight Trust to act as the sole member of the new CWF Trust (or Trusts) and exercise its oversight role as for the other operating companies

- **Identification of other possible sources of funding to allow an earlier start on implementing the CWF. Options include:**
    - A limited amount of funding from the existing dormant assets scheme (i.e. dormant bank and building society accounts)
    - Funding from the National Fund, subject to further progress in the High Court
    - Start-up funding from the Exchequer

- **Establishing the Community Wealth Fund Trust:**
    - Registration as a company limited by guarantee, with the Oversight Trust as the sole member
    - Recruitment of a Chair and Board of Directors, by a small search and interview panel drawn from the main sponsors of the CWF

    - Subsequent recruitment by the Board of a Chief Executive and a small core of staff to get the organisation up and running

- **Developing the Community Wealth Fund:**
    - Adapting community facilitation and interventions using the experience of Big Local and other existing programmes
    - Identifying left behind areas, building on the work already done by OCSI
    - Piloting the Community Wealth Fund in a selection of areas

IMPLEMENTING THE COMMUNITY WEALTH FUND

The Community Wealth Fund

The Community Wealth Fund Alliance – a group of over 460 organisations with a stake in civil society – has put forward innovative proposals for a Community Wealth Fund (CWF) to revitalise left behind communities using a new tranche of dormant assets.

The Alliance produced a prospectus for the CWF in August 2020, as a submission to the Government's expected Spending Review[1]. It said:

> "**The proposed Community Wealth Fund aims to invest in the structures and processes that support the formation of social capital in the most 'left behind' places. Trusting local people with decision-making power over resources would enable them to design and develop services and facilities that best fit their particular needs and aspirations and, over time, to radically improve their neighbourhoods and their quality of life."**

This proposal has been strongly supported by Danny Kruger MP in his Report for the Prime Minister "Levelling up our communities: proposals for a new social covenant" (September 2020)[2], where he termed the proposal a "Levelling up Communities Fund".

The Alliance has proposed that the CWF should be financed from a new tranche of dormant assets held by financial institutions in the UK. This would build on the existing system for directing funds from dormant bank and building society accounts to social and environmental purposes, established under the Dormant Bank and Building Society Accounts Act 2008. The approach would be extended to further classes of dormant assets, including pensions, annuities, life insurance policies, dividends, shares and bonds through the Dormant Assets Bill currently (December 2021) before Parliament.

The Alliance has proposed that substantial funds from this source should be used to build an endowment for 'left behind' communities. This would enable:

- Long term funding (well beyond usual public sector funding cycles)
- Secure funding, not dependent on public fundraising or grants
- An approach which is collaborative and allows for learning
- A secure basis to attract additional funding from the private sector and philanthropists.

Additional funds may be needed on a temporary basis to get the CWF approach up and running quickly, as it will be some time before funds from the new classes of dormant assets are available.

This guide to implementation is intended to set out the main actions needed once the new Dormant Assets Bill has been enacted and the Government has taken the political decision to proceed with the CWF.

Implementation – three main strands

There are three major strands of activity to further define and implement the Community Wealth Fund:

- **Policy development**. The overall shape of the CWF is already very clear, with strong precedents from the Big Local initiative (run by Local Trust) in particular. But detailed issues will arise as the fund gets underway.
- **Funding**. This includes resources from extending the dormant assets scheme to new classes of assets, but also the identification of other funds which might be available to allow implementation to start more quickly.
- **Administration**. Arrangements to make the CWF a reality of the ground.

Policy development: The CWF Task Force

The CWF Alliance proposes to establish a Task Force to define what the CWF would look like in practice building on the precedents and on a lot of work already undertaken by and for the Alliance.

The Task Force would comprise 10-15 senior and respected individuals drawn from the full range of relevant backgrounds, including civil society, the third sector, community interests, central government, local government and business. It would work collaboratively. It would be independent of any single stakeholder. It would be assisted by a small secretariat drawn from leading members of the CWF Alliance. It would be given a small budget to commission relevant work, e.g. on the selection of 'left behind' areas and the effectiveness of different approaches, building on evidence of what works. It would build on the Alliance's prospectus of August 2020 [ref 1] but fill in many of the details and forge a wide-ranging consensus around the detailed design of the Fund.

One early issue would be the selection of 'left behind' areas where the scheme should operate, and in the early days where it could be piloted. Fortunately, detailed work has been done on this, in the form of a major report "Left Behind? Understanding communities on the edge" (September 2019, with data updates in July 2020)[3] by Oxford Consultants for Social Inclusion (OCSI) funded by Local Trust.

Given the substantial policy development which has already been done, and the proposal to establish the Task Force, this paper focusses on the other two strands: funding and administration.

Existing dormant assets recovery system

The existing dormant assets scheme consists of legislation passed in 2008 and a system to collect money from dormant bank and building society accounts, make provision to meet subsequent claims ("reclaims") from beneficial owners who come forward after transfer, and distribute the balance to voluntary organisations meeting social and environmental needs. To date some £1.44bn of dormant assets have been transferred to the scheme. Reclaims have amounted to some 5% of the sums transferred, and the scheme has made available about £800m to be used for good causes.

Dormant Bank and Building Society Accounts Act 2008[4]

The Act provides for:

- The voluntary transfer by banks and building societies of balances from dormant accounts to a reclaim fund.
- The establishment of one or more companies as "reclaim funds", and requirements on their form and constitution.
- The definition of relevant accounts, balances and dormancy. In particular accounts must have been abandoned for at least 15 years.
- Arrangements for owners to reclaim their money from the reclaim fund in full if they come forward after transfer.
- The transfer of available funds (after allowing for likely reclaims and costs) to the National Lottery Community Fund (NLCF - originally the Big Lottery Fund).
- A split of the cash between the four countries of the UK.
- Transfer of the cash by the NLCF to voluntary sector organisations in each country meeting social or environmental purposes.

The Act also provides for an "alternative scheme" for smaller banks and building societies with balance sheets less than £7bn. This allows for them to provide dormant funds to local charities with which they are aligned as well as through the general scheme.

In England the use of the money released for social and environmental purposes is further restricted by the Act to three specific purposes: 1) meeting the needs of young people; 2) assisting personal financial management and access to financial services; and 3) social investment wholesalers. (There is no such restriction in relation to Scotland, Wales and Northern Ireland, where there is provision for the relevant devolved administration to make regulations or directions on the use of the money.)

The Treasury carried out a statutory review of the scheme in 2014 as required by the Act[5]. This concluded that the main scheme for dormant accounts was efficient and was working well; and that banks and building societies had been effective in providing a free tracing service, "mylostaccount.com", for making those entitled to dormant accounts aware of them, and in meeting reclaims.

The review also noted that the alternative scheme for smaller banks and building societies had not at that point been used but decided against making any changes at that stage. (It is worth noting that the alternative scheme has subsequently been taken up by two Building Societies.)

Administration of the scheme

The existing scheme is administered through a single reclaim fund (Reclaim Fund Limited) and the National Lottery Community Fund as a conduit for money released for good causes. In England four operating companies have been established to spend dormant assets money for good causes consistent with the Act. Finally, the Oversight Trust oversees the operating companies, providing assurance on their governance and effectiveness.

Reclaim Fund Limited[6]

Reclaim Fund Limited (RFL) is a not-for-profit organisation set up specifically as a reclaim fund under the terms of the 2008 Act.

RFL was established in 2011 by the Co-operative Banking Group Limited (now Angel Square Investments Ltd). It operates independently and has its own Board of Directors. It is regulated by the Financial Conduct Authority (FCA).

Although RFL has the legal responsibility for meeting reclaims by asset owners who come forward after transfer, the administration of reclaims is carried out by the banks and building societies which held the relevant accounts, acting as agents for RFL.

RFL is funded from the funds it receives and the income it makes from investing those funds.

National Lottery Community Fund[7] (previously Big Lottery Fund)

Under the 2008 Act, the National Lottery Community Fund acts as a conduit for the net amount of dormant assets money which is available for distribution to meet social and environmental needs.

Cash from dormant bank and building society accounts arises at the UK level and needs to be split between the four countries of the UK. This is done according to regulations made under the 2008 Act by the UK Government.

The National Lottery Community Fund then distributes the English share of the total between the four operating companies (see below) according to Directions issued by the Secretary of State for Digital, Culture, Media and Sport.

The Fund also uses the cash from dormant assets to meets its own expenses and those of the UK Government and the devolved administrations in the administration of the dormant assets scheme. Similarly, it funds the costs of the Oversight Trust.

Oversight Trust - Assets for the Common Good[8] (previously Big Society Trust)

The Oversight Trust is effectively a group holding company for the operating companies which spend money from the dormant assets fund. It is a company limited by guarantee whose members are its Directors. The Government and the National Lottery Community Fund each nominate one Director, but the majority of Directors are appointed by the existing Board. It is therefore independent of any of the key stakeholders. Its key role is to oversee the activities of the operating companies and ensure they remain true to their objects (that is, the social and environmental purposes for which they were established).

The Trust exercises its oversight function:

- To ensure each company is well governed.
- To ensure that any changes to a company’s objects are appropriate.
- To ensure each company’s strategic plans are in accordance with its objects.
- To review the companies’ achievement of social impact.
- To review the transparency of financial and impact reporting.
- To provide guidance and advice to the companies where appropriate and practicable, or as requested.

The constitutions and governance documents of the Operating Companies give the Oversight Trust rights and powers to perform its functions (see below). The Trust also has a Governance Agreement with each company.

The Trust's (modest) administration costs are financed by money from the dormant assets fund, provided via the National Lottery Community Fund.

Operating companies

Four Operating Companies have been established to fulfill particular social and environmental needs in England using money from dormant assets. They are:

- **Big Society Capital**[9], a social impact-led investor channeling money to social enterprises and charities creating a sustainable return.
- **Youth Futures Foundation**[10], supporting young people furthest from the labour market into employment.
- **Fair4All Finance**[11], supporting the financial wellbeing of people in vulnerable circumstances by increasing access to fair, affordable and appropriate financial products.
- **Access – the Foundation for Social Investment**[12], making charities and social enterprises in England more financially resilient and self-reliant, so that they can sustain or increase their impact.

Big Society Capital is a company limited by shares, and the "A" shares held by the Oversight Trust enjoy 80% of the voting rights. The remaining 3 Operating Companies are companies limited by guarantee which have the Oversight Trust as their sole member.

Previous work on mobilising further dormant assets

The existing dormant assets scheme described above is concerned only with cash accounts at banks and building societies. It has always been clear that there are many other classes of dormant assets held by financial institutions, in particular investment funds, shares and bonds, unclaimed proceeds from life insurance and pensions, and property assets. Following the success of the existing scheme, a considerable amount of work has been done over the last 5-6 years on the potential for mobilising these assets for charitable purposes. This work has been led by the Department of Digital, Culture, Media and Sport (DCMS) and Her Majesty's Treasury (HMT).

Commission on Dormant Assets 2016&17

The Government announced in December 2015 the creation of a Commission chaired by Nick O'Donohoe, former Chief Executive of Big Society Capital, to look at the scope for mobilising further classes of dormant assets. The Commission was launched in March 2016 with a further nine Commissioners from across the financial services and professional services sectors.

The Commission published its report "Tackling dormant assets – recommendations to benefit investors and society"[13] in March 2017. They recommended that:

- The key principles of the existing dormant assets scheme should be retained.
- That it should be expanded to include a much wider range of financial assets.

- That the processes of the scheme should be revised to facilitate larger flows and more complex assets.
- That new legislation would be needed, and that this should be brought forward by the Government.

DCMS and HMT responded to the Report in February 2018[14]. They accepted the recommendations (with minor exceptions) but expressed a general view that it was for the financial services industry to lead the expansion of the scheme. In line with this, they undertook to appoint Industry Champions to carry the issues forward with the industry.

Industry Champions – 2018&19

In June 2018, DCMS and HMT appointed four champions from different sectors of the financial services industry (Insurance and Pensions; Banks and Building Societies; Investment and Wealth Management; and Securities) to spearhead an industry-led approach to expanding the dormant assets scheme. The champions engaged widely with the industry and published their report "The Dormant Assets Scheme: A Blueprint for Expansion" in April 2019[15].

At the start of their report, the Champions said:

> **"A decade on from the enactment of the Dormant Bank and Building Society Accounts Act, now is the time for industry to help reunite even more customers with their assets and put more dormant assets to good use tackling social issues and supporting people and communities across the UK."**

The Report also set out four core principles for an expanded scheme:

- Prioritising efforts to reunite beneficial owners with their assets.
- Maintaining a voluntary scheme for firms.
- Providing full restitution in perpetuity where owners come forward after transfer of dormant assets.
- Tailoring definitions of dormancy to the features of each type of asset.

The Report recommended a phased approach to implementation. Phase One would establish a supportive legislative and regulatory framework; implement standard practices for Tracing, Verification and Reunification of potentially dormant assets with their owners; and continue preparatory work for expanding the scheme. Phase Two would make a start on transferring new classes of assets to Reclaim Fund Limited, concentrating on those already in cash form. Subsequent phases would concentrate on more complex assets such as shares which would have to be converted to cash prior to transfer.

The Report reflected a cross-sector consensus that the immediate next step was for the Government to make changes to primary and secondary legislation to support an expanded scheme.

Government Consultation on expanding the dormant assets scheme – February 2020

Following the Industry Champions' Report, the Government issued a consultation document on proposals for expanding the dormant assets scheme on 21 February 2020[16].

The document contained detailed proposals on:

- The scope of an extended scheme in terms of the dormant assets to be covered, including:
    - Life insurance policy proceeds.
    - Share proceeds.
    - Unit trust proceeds.
    - Investment asset distributions and proceeds.
    - Other security distributions (e.g., dividends and proceeds from corporate actions like takeovers).
- The definition of dormancy in relation to each class of assets.
- The range of financial institutions to be involved as participants.
- The operation of the scheme.

The consultation document sought responses by 16 July 2020.

Government response to consultation on expanding the dormant assets scheme – January 2021

The Treasury and DCMS published their conclusions arising from responses to the consultation of February 2020 on 9 January 2021[17].

The responses to consultation showed widespread support for expanding the scheme in the ways suggested. The Government therefore confirmed its intention to legislate on the broad basis suggested in the consultation document, subject to some minor changes in coverage and definitions of dormancy (set out in detail in the document).

The document also set out industry estimates that dormant assets in the relevant classes might total £3.7bn, of which some £2bn might be reunited with beneficial owners through enhanced Tracing, Verification and Reunification. That might leave £1.7bn to be transferred to Reclaim Fund Limited, of which some £880m could be released for social and environmental good causes.

Finally, the document noted that some responses had made recommendation on how future dormant assets funding could be spent and said that the Government would consider whether this should be reviewed.

Dormant Assets Bill – May 2021

The Government has produced legislation to implement their proposals on expanding the dormant assets scheme in the form of the Dormant Assets Bill, which was introduced into the House of Lords in May 2021.

As introduced, the Bill contained three main types of provision:

- Clauses extending the dormant assets provisions to new classes, including insurance, pensions, investments, client monies and securities.
- A power to extend the scheme to further classes of assets by secondary legislation.
- A power to make regulations to change the purposes for which funds from dormant assets can be used in England. This would allow funds to be used for additional purposes, beyond the 3 specified in the 2008 Act, and bring England into line with the other countries of the UK in this respect.

The Bill was amended in the Lords in three key respects:

- The Secretary of State was required to consult before using the power to extend the use of dormant asset funds in England.
- Explicit provisions were added to allow (but not require) the Secretary of State to establish one or more community wealth funds for a temporary period of at least 10 years, followed by a review of their efficacy with a view to creating such funds on a permanent basis.
- The Secretary of State was required to review the dormant assets scheme periodically and report to Parliament on its operation and effectiveness.

The second change – relating to community wealth funds – was an amendment supported by the Opposition parties (Labour and the Liberal Democrats) but opposed by the Government.

The Bill was introduced into the Commons on 24 November 2021, with Second reading on 6 December. If progress is maintained, it seems reasonable to expect the Bill to become law in the first few months of 2022.

Action needed once the Dormant Assets Bill is enacted

Secondary legislation on new classes of dormant assets

Secondary legislation will be needed following the passage of the Dormant Assets Bill to fully implement the extension of the scheme to new classes of assets in legal terms:

- A Commencement Order to bring the new powers into effect.
- A new or revised order specifying how resources from the new tranche of dormant assets are to be split between the four countries of the UK. The current model is The Distribution of Dormant Account Money (Apportionment) Order 2011[18].
- Any order required to deal with technical issues in relation to the new classes of assets. For example, to refine the nature of assets and/or the definitions of dormancy in the primary legislation.
- An order on tax issues related to the new classes of dormant assets. This will probably be made entirely under finance, tax and tax management powers. The model under the existing scheme is The Dormant Bank and Building Society Accounts (Tax) Regulations 2011[19].

The secondary legislation could in principle be prepared while the Bill is in Parliament and the relevant Orders could be made fairly soon after Royal Assent to the new Bill and come into effect no more than a few weeks later. A more likely timetable is that the Government might bring forward the necessary Orders and pass them through Parliament in parallel with consultation on the use of the new funds.

Consultation and secondary legislation on the use of funds

The Bill gives the Secretary of State powers to extend the use made of funds from dormant assets in England and the kind of bodies to which it should be distributed but requires a public consultation before those powers are exercised. There is also a requirement to consult the Big Lottery Fund (now generally known as the national Lottery Community Fund) about a draft of the Order.

The implementation of an extended dormant assets scheme directed to at least some new purposes therefore requires the following additional steps:

- Government consultation on the new purposes (in terms of amendment to the restrictions on the use of funds).
- Government to prepare an Order making the changes and to consult the Big Lottery Fund on a draft.
- Government to seek parliamentary approval for the Order (affirmative resolution procedure).

The provisions added by opposition amendment in the Lords provide explicitly for the Secretary of State to use these powers to fund one or more community wealth funds. They also allow for pilots of community wealth funds, with a review after at least 10 years with a view to creating permanent funds. But these provisions are permissive; there is no requirement to use them and in any case the Government has made clear that it will seek to remove them by amendment in the House of Commons.

But whether or not they remain in the Bill as enacted, the nature of the debate in Parliament makes it difficult to envisage the Government consulting on the use of the new powers without raising the option of funding one or more community wealth funds on either a pilot or a permanent basis. Much may then depend on the responses to consultation, and particularly the strength of the support for the Community wealth Fund.

Implementation of the CWF beyond the statutory framework

The following sections of this paper cover the action which would be necessary to implement the Community Wealth Fund on the assumption that the Government had decided that that was a preferred use for all or a major part of the new tranches of funds released from dormant assets. (For convenience, this paper refers to a single Community Wealth Fund. But this could easily be extended to two or more pilots if that were the preferred approach, as suggested in the Lords amendments to the Bill.) They cover:

- Steps needed with the financial services industry to get the extended scheme in operation as quickly as possible.
- The administrative machinery needed in terms of collecting and distributing the additional dormant assets funds and ensuring that they are put to use effectively.
- The options for mobilising additional sources of funding for the CWF to allow for the earliest possible start (before funds from the new classes of dormant assets begin to flow to good causes).
- Establishing a body to administer the CWF, here referred to for convenience as the CWF Trust.
- The first stages of work by the Trust to get the CWF into action, creating real change in ‘left behind’ communities.

Next steps in relation to the financial services industry

There has already been very extensive contact with the industry in relation to the principle of extending the dormant assets scheme to a much wider class of assets. This includes widespread consultation and discussion by the Commission on Dormant Assets in 2016 and 2017; and by the Industry Champions in 2018 and 2019.

The Report from Industry Champions (April 2019) said **"**Establishing a supportive legislative framework … is fundamental for a successful expansion of the scheme. Industry ambition for the expansion of the scheme is far greater than the current legislation allows". The enactment of the Dormant Assets Bill and the related secondary legislation will of course put that legislative framework in place.

Further close Government involvement with the financial services industry, both before and after the new legislation is in place, will likely be crucial to effective and timely implementation of the wider dormant assets scheme. Three factors are important here. First, involvement in the scheme is voluntary for financial institutions. Second the extended scheme will require the involvement of a wide range of financial institutions which have not previously participated. Finally, the new classes of assets involve more complex issues than the simple cash deposits in bank and building society accounts.

It is therefore suggested that the Government set up a high-level implementation group with the industry. This should be chaired either by a Minister or by a very senior official. Ideally in either case the Chair would be drawn from the Treasury, given its lead role in relation to the industry. The majority of other members would be drawn from the relevant sectors of the financial services industry – probably in most cases from the relevant representative bodies. But one or more members should also be drawn from civil society bodies which have a stake in the timely roll out of the CWF.

The key aim of the group would be to push forward the fastest and widest possible involvement in the expanded dormant assets scheme. It would encourage individual sectors to participate. It would identify and seek to remove actual or perceived obstacles. It would work alongside the proposed Task Force taking forward the CWF initiative. Indeed, some joint working might well be appropriate, possibly helped by some cross-membership.

Establishment of the group need not await the full implementation of the legislation for the wider dormant assets scheme. On the contrary, the earliest possible start will ensure that dormant assets can flow at the earliest possible date once legislation has been completed.

Administration of the extended dormant assets scheme

There are a number of possible approaches to administration of an expanded dormant assets scheme, with the new resources directed to a Community Wealth Fund.

Using the existing dormant assets machinery

The most straightforward approach is to simply use the existing machinery for dormant bank and building society accounts, with the minimum of changes needed to accommodate the new classes of dormant assets and the new CWF. This would mean:

- Using Reclaim Fund Limited as the recipient of voluntary transfers of the new classes of dormant assets. This is in line with the Government's stated intention (in its January 2021 response to consultation) to make RFL the sole authorised reclaim fund under dormant assets legislation.
- Channeling the proportion of these funds which can be released for good causes through the National Lottery Community Fund.
- Giving the Oversight Trust the same role in relation to the Community Wealth Fund that it already plays in overseeing the existing 4 Operating Companies.

- Transferring the available funds to a new body (here called for convenience the Community Wealth Fund Trust) to administer the CWF.

If this approach is taken, the only new body to be created is the CWF Trust. This could build on the precedents created for the most recent Operating Companies, particularly Fair4All Finance and the Youth Futures Foundation, along the following lines:

- A company limited by guarantee.
- The Oversight Trust as the sole member.
- Governance documents which embed the powers of the Oversight Trust to exercise its oversight function (as set out above).
- A Governance Agreement with the Oversight Trust, again building on the existing precedents.

Under this approach, it would be necessary to approach each of the existing players (RFL, NLCF and the Oversight Trust) and seek their agreement to take on the additional functions. It would also be necessary to provide for their additional costs, almost certainly from the proceeds of the dormant assets scheme.

The Government would no doubt wish to ensure that any new costs are proportionate and represent only the marginal additional costs imposed by the new functions. However, the total costs should be allotted appropriately between the existing and new flows of funds, which might mean some modest savings for the existing scheme.

Using alternative machinery

It would of course be possible to use a different approach to the new tranche of dormant assets. Reclaim Fund Limited would seem to be a necessary part of any new approach, given the Government's intention that it should be the sole authorised reclaim fund. But funds could in principle go direct to a new Community Wealth Fund Trust established as a free-standing body with an appropriate constitution (e.g., as a company limited by guarantee). Some mechanism would be desirable to ensure that the Trust remained true to its original aims, and that any changes were appropriate. This could be done in a number of ways, some of which were considered when the original dormant assets scheme was established (including a Golden Share held by the Government, or oversight by the Charities Commission).

Such approaches might be attractive if the new dormant assets scheme was starting with a blank sheet of paper. But given the existing system, and the modest cost of the functions fulfilled by both the NLCF and the Oversight Trust, it seems best to use the existing machinery, at least at the outset. A different approach could be considered later, particularly if the Community Wealth Fund Trust becomes considerably larger than any of the existing operating companies. But there would need to be compelling arguments to justify the extra expense and complication of setting up new bodies.

Other possible sources of funding for the Community Wealth Fund

Extending the dormant assets scheme to new classes of assets and directing them to a Community Wealth Fund has the potential to release a genuinely transformational quantum of resources to revitalise 'left behind' communities. But it is not going to be achieved immediately. The necessary processes of legislation and consultation impose some delay before implementation can start, and a further (probably substantial) delay while dormant assets in the new classes are identified and transferred to a reclaim fund. If this is the only source of resources for the CWF then it is not going to achieve results quickly (see timeline).

It would therefore be desirable to access other sources of funds which could be directed to 'left behind' communities in the short term. This would allow an early start on the CWF, and real momentum in selecting 'left behind' communities, building capacity within them, and making a start on improvement even before new resources begin to flow through the dormant assets scheme.

This section explores possible sources of funds which meet these criteria.

Dormant Bank and Building Society Accounts (i.e. the existing dormant assets scheme)

It would in principle be possible to direct a limited amount of as yet unallocated funding from the existing dormant assets scheme to create the CWF and its supporting infrastructure.

This could not be done immediately because the CWF is outside the three charitable purposes of the existing legislation in England (meeting the needs of young people; assisting personal financial management and access to financial services; and social investment wholesalers). It would however be possible once the current Bill has been enacted, the Government has consulted on new uses for the resulting funds and Regulations have been passed in Parliament allowing one or more community wealth funds to be supported.

Subject to those steps, some money could be released later in 2022, and well before funds are likely to be available from the new classes of dormant assets.

The National Fund

The "National Fund" is a charitable fund created through an anonymous donation of £500k in 1928. The aim was to attract other donations, and by investment over a run of years create a pool large enough to pay off the national debt.

Other donations were made, although none after 1982. The National Fund now stands at nearly £600m (with the national debt currently around £2tn).

The High Court has considered an application by the Attorney General (acting in his role relating to charities rather than as a Government Minister) that the purpose of the charity cannot now be fulfilled, and that the National Fund should be used to reduce the national debt. Some descendants of donors joined the action, arguing that, if the original purpose could not be fulfilled, some or all of the Fund should be returned to them.

The High Court found[20]:

- That the original charitable trust was valid (and so the descendants of the original donors had no claim on the National Fund).
- That the purpose of the trust had failed (since there was no realistic prospect of the fund ever being sufficient to pay off the national debt).
- That the court therefore had the power to alter the charitable trust under its "cy-près" jurisdiction (which would allow it to make a scheme as close as possible to the

original intention, but which could be achieved).

The High Court had not heard arguments about possible alternative schemes to alter the trust, so made no decision on this. It will return to this issue.

In policy terms, it would be attractive to change the terms of the National Fund to direct some of it to the Community Wealth Fund. The money could be available quickly, without the need to wait for Primary Legislation.

Ideally this would be achieved directly. The High Court could possibly make a scheme providing new charitable purposes for the National Fund in line with the CWF. This proposal would need to be argued in the High Court proceedings when they recommence. A supporting argument might be that the Fund's founding documents state that its resources might be released in a national emergency, and that the coronavirus pandemic represents such an emergency.

It might be however that the court would decline to act in this way if it held that the new purpose was too far from the original purpose to be achieved through its cy-près jurisdiction. In that case the same effect might be achieved indirectly if:

- The National Fund was released to reduce the national debt, and
- The Treasury released a matching sum to fund a start on the Community Wealth Fund.

NB Local Trust has developed a proposal with Fair 4AllFinance for the nearly £600m in the National Fund to be dedicated to a new Jubilee Fund. This would support: debt forgiveness and build financial capacity in 'left behind' areas; the development of their social infrastructure and social capital (the Community Wealth Fund) and encourage enterprise and corporate philanthropy. A paper on the Jubilee Fund has been submitted to the High Court.

Interim funding from the Exchequer

An alternative would be start-up funding from the Exchequer. This could be strictly time limited, pending the release of dormant assets funding.

Establishing the Community Wealth Fund Trust

On one level, setting up a company to carry forward the Community Wealth Fund is fairly straightforward. To register a new company limited by guarantee with Companies House, the requirements are:

- A company name – e.g. "Community Wealth Fund Trust" (provided this is not already taken).
- At least one Director, who could be a leading figure in the Community Wealth Fund Alliance or the proposed Task Force.
- At least one guarantor. If the existing administrative machinery for dormant assets is used this would be the Oversight Trust.
- Memorandum and Articles of Association for the company. On the existing model, these could build closely on the precedents established for the most recent Operating Companies in terms of governance and oversight. The main new element would be to set Objects for the company reflecting the ambitions for the Community Wealth Fund and the powers needed to implement it. (If the community wealth fund provisions

remain in the Dormant Assets Bill as enacted, the Objects would need to be consistent with the definitions of “community wealth funds” and “social infrastructure” incorporated in the Bill.)

The company will need a Chair and Board of supporting Directors reflecting an appropriate range of skills, experience and background. These might include civil society, community regeneration, understanding of indicators of community stress and deprivation, and possibly the financial sector (to retain a link to the source of funding). A competitive approach to selecting Directors would be appropriate, perhaps conducted by a small search and interview panel chosen from members of the proposed Task Force, with perhaps one representative of the existing dormant assets machinery.

Once a Chair and one or more members have been selected, they will want to move forward to recruit a Chief Executive and a small core of staff to help get the organisation established.

Timing

The key question is the timing of establishing the company. While it could be set up with relatively little cost, any effective action to move forward with the CWF would require some moderate start-up funds to recruit a Chief Executive and a small staff. Much depends on whether some funding can be identified for an early start, as discussed above, e.g. from the National Fund or from the Exchequer. If it can, then it would be possible to establish the CWF Trust fairly soon, and in advance of full implementation of the expanded dormant assets scheme. If not, it might be best to wait until funds from the new classes of dormant assets are beginning to flow.

Developing the CWF

The immediate priorities of the CWF Trust would be to identify the areas of interest, to launch some pilots and generally to develop the full suite of arrangements to assist ‘left behind’ areas to build social and economic infrastructure. This is very far from being a blank canvas. There is considerable experience of relevant interventions and expertise on how they can be made to work effectively:

- ***Expertise***. There is much existing expertise on local community development and interventions, not least in Local Trust and other civil society bodies.
- ***Experience***. The Big Local initiative run by Local Trust provides a very powerful precedent for effective interventions in areas with limited or non-existent social infrastructure and serious issues to be addressed.
- ***Identifying the areas/neighbourhoods of interest***. Valuable work has been done for Local Trust by Oxford Consultants for Social Inclusion (OCSI) on mapping left behind areas in their Report “Left behind?: Understanding communities on the edge” (ref 3).
- ***Arrangements for implementation on the ground***. The detailed proposals put forward by the Community Wealth Fund Alliance (ref 1) provide useful suggestions on distribution and delivery mechanisms.

Timeline – likely timetable for implementation

Annexes 1 and 2 are simple Gantt charts which are designed to illustrate the likely timeline for implementing the Community Wealth Fund on different assumptions about the availability of early funding (from the National Fund, the Exchequer or elsewhere). None of the timings should be taken as definite. They are based on a subjective view of how quickly implementation might be possible given a realistic but ambitious approach to the legislative and administrative steps set out above.

Both charts assume that the Dormant Assets Bill passes into law in Spring 2022, that the Government then makes the necessary secondary legislation to bring the new legal framework fully into operation by the Summer. They further assume that the Government consults on the uses of the new fund immediately after the Bill passes (as it has said it will), allows 3 months for responses and publishes conclusions which support the establishment of one or more community wealth funds shortly afterwards.

Annex 1 (no early funding) shows how implementation might proceed if the CWF has to rely entirely on resources from a new dormant assets scheme. Legally the scheme could start from Summer 2022. But it would no doubt take a considerable period for financial institutions to set up the systems to deal with dormant assets (particularly those relating to Tracing, Verification and Reunification) and to start transferring funds to Reclaim Fund Limited); for Reclaim Fund Limited to establish a track record on the new assets, and to make provision for reclaims; and for funds to flow to the National Lottery Community Fund and then on to allow the establishment of the CWF Trust. Funds might begin to flow to the Trust from Summer 2024.

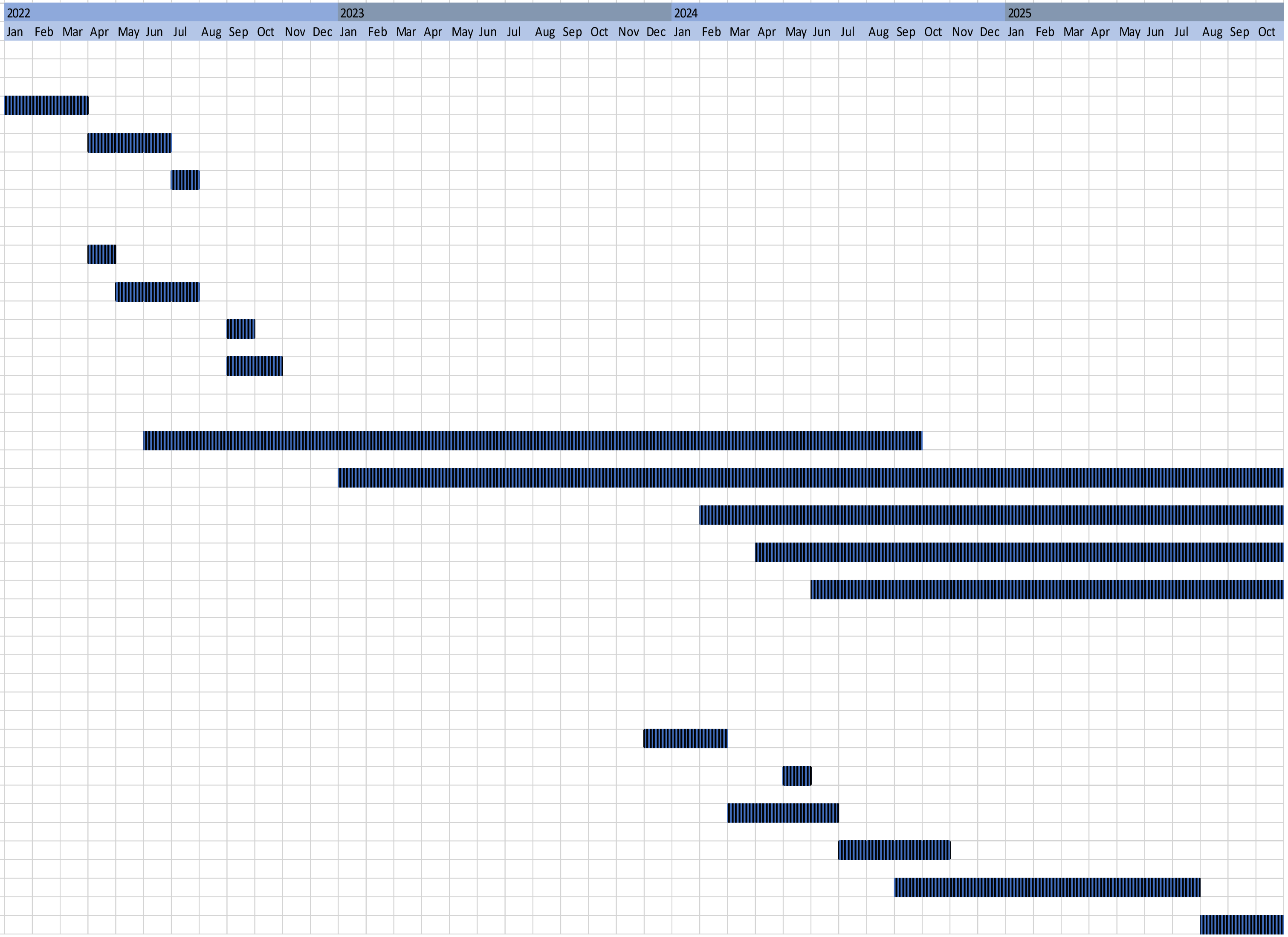
On this basis, the Trust could perhaps be in operation in Autumn 2024 to set up the CWF, to determine policy and to select the areas of interest. It might be in full operation, with real impacts in the selected areas beginning to come through from Autumn 2025.

Annex 2 (with early funding) is based on the assumption that early funding might be available from Autumn 2022 (followed by permanent funding from the new dormant assets scheme from Summer 2024 as above). The CWF Trust could then be established by the Spring of 2023. It could undertake the set up and piloting phase during 2023 and be in full operation by Spring 2024.

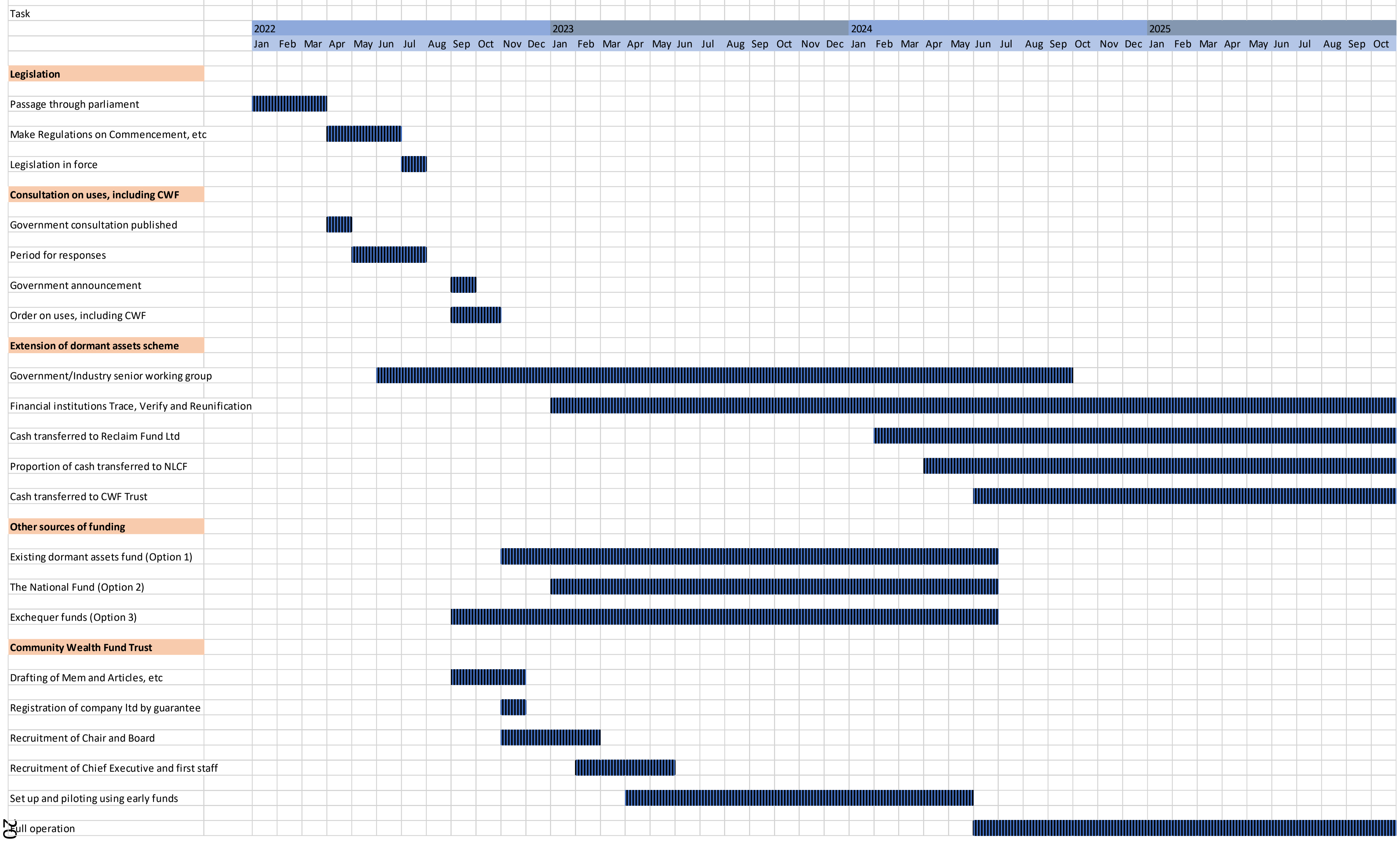
Annex 2 therefore illustrates that early funding might accelerate the timetable for the Community Wealth Fund by around 18 months.

COMMUNITY WEALTH FUND TIMELINE - WITH FUNDING ONLY FROM NEW DORMANT ASSETS (NO EARLY FUNDING)

Task	Start	End
Legislation		
Passage through parliament	1	3
Make Regulations on Commencement, etc	4	6
Legislation in force	7	7
Consultation on uses, including CWF		
Government consultation published	4	4
Period for responses	5	7
Government announcement	9	9
Order on uses, including CWF	9	10
Extension of dormant assets scheme		
Government/Industry senior working grou	6	33
Financial institutions Trace, Verify and Re	13	46
Cash transferred to Reclaim Fund Ltd	26	46
Proportion of cash transferred to NLCF	28	46
Cash transferred to CWF Trust	30	46
Other sources of funding		
Not available		
Community Wealth Fund Trust		
Drafting of Mem and Articles, etc	24	26
Registration of company ltd by guarantee	29	29
Recruitment of Chair and Board	27	30
Recruitment of Chief Executive and first st	31	34
Set up, policy work, selection of areas, etc	33	43
Full operation	44	47



ANNEX 2: COMMUNITY WEALTH FUND TIMELINE - WITH EARLY FUNDING PROVIDED FROM THE NATIONAL FUND OR THE EXCHEQUER



[1] The Community Wealth Fund – a more detailed proposal. Community Wealth Fund Alliance, August 2020. [web ref]
[2] "Levelling up our communities: proposals for a new social covenant", A report for Government, Danny Kruger MP, September 2020 (https://www.dannykruger.org.uk/sites/www.dannykruger.org.uk/files/2020-09/Kruger%202.0%20Levelling%20Up%20Our%20Communities.pdf
[3] "Left Behind? Understanding Communities on the edge", OCSI for Local Trust, September 2019 (https://localtrust.org.uk/insights/research/left-behind-understanding-communities-on-the-edge)
[4] Dormant Bank and Building Society Accounts Act 2008 (https://www.legislation.gov.uk/ukpga/2008/31/contents).
[5] Treasury review of the existing dormant assets scheme (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/298366/review_of_dormant_accounts_act_2008.pdf).
[6] Refund Claim Limited (https://www.reclaimfund.co.uk/).
[7] The National Lottery Community Fund (https://www.tnlcommunityfund.org.uk/).
[8] The Oversight Trust (https://www.oversighttrust.org/).
[9] Big Society Capital (https://bigsocietycapital.com/)
[10] Youth Futures Foundation(https://youthfuturesfoundation.org/)
[11] Fair4All Finance(https://fair4allfinance.org.uk/)
[12] Access – the Foundation for Social Investment (https://access-socialinvestment.org.uk/)
[13] "Tackling dormant assets – Recommendations to benefit investors and society" Report of the Commission on Dormant Assets, March 2017 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727189/Tackling_dormant_assets_-_recommendations_to_benefit_investors_and_society__1_.pdf)
[14] Government response to the Report of the Commission on Dormant Assets, February 2018 (https://www.gov.uk/government/publications/government-response-to-the-commission-on-dormant-assets-report)
[15]"The Dormant Assets Scheme: A Blueprint For Expansion" Report from Industry Champions, April 2019 (https://www.gov.uk/government/publications/the-dormant-assets-scheme-a-blueprint-for-expansion)
[16] "Consultation on expanding the dormant assets scheme", HM Treasury & Department for Digital, Culture, Media and Sport, 21 February 2020 (https://www.gov.uk/government/consultations/consultation-on-expanding-the-dormant-assets-scheme)
[17] "Government response to the consultation on expanding the Dormant Assets Scheme", 9 January 2021 (https://www.gov.uk/government/publications/government-response-to-the-consultation-on-expanding-the-dormant-assets-scheme)
[18] The Distribution of Dormant Account Money (Apportionment) Order 2011 (https://www.legislation.gov.uk/uksi/2011/1799/contents/made)
[19] The Dormant Bank and Building Society Accounts (Tax) Regulations 2011 (https://www.legislation.gov.uk/uksi/2011/22/introduction/made)
[20] High Court Judgement on the National Fund, 9 November 2020 (https://www.bailii.org/ew/cases/EWHC/Ch/2020/2988.html)