Towards an EU-wide Rulebook on Dormant and Unclaimed Assets—A Missing Piece of the Single Market?

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Banking union; Comparative law; Conflict of laws; Dormant accounts; European Union; France; Harmonisation; Internal market; Italy; Unclaimed moneys

Abstract

Fragmented national regimes for dormant and unclaimed assets are increasingly incompatible with an integrated European Union (EU) Single Market. Drawing on the United States' harmonised escheatment architecture and the Uinted Kingdom's (UK) dual-track model, this article shows how EU Member State divergence in definitions, dormancy thresholds, scope, tracing duties, end uses and enforcement erodes consumer protection, legal certainty and supervisory transparency and immobilises capital. It analyses conflicts of law and frictions for cross border firms (including custodial chains and branch versus subsidiary booking). The article argues for an EU maximum harmonisation directive establishing standardised dormancy triggers, a pan EU register, cross border notification and tracing obligations, harmonised transfer rules with perpetual reclaim rights and technical standards under EBA/ESMA/EIOPA oversight. By covering traditional instruments and emerging categories (notably crypto assets) and aligning with the Banking Union and the Savings and Investments Union, the proposed framework would simplify compliance, enhance prudential clarity and unlock dormant capital for social and green objectives, while restoring cross border reclaimability across the EU.

Introduction

Across the European Union (EU), billions of euros (and other currencies) remain dormant or unclaimed in bank accounts, life insurance contracts, pension funds, securities registers and investment firm client money/asset accounts. In certain (but not all) jurisdictions dormant accounts (and their balances) will be subject to escheatment. Escheatment refers to the process by which unclaimed property, such as balances in dormant accounts, is transferred from financial institutions to the state (or a state administered body) after a certain period.

In most jurisdictions applicable rules require that financial institutions and any state administered body facilitate locating and reuniting clients (or their lawful representatives/heirs) with such unclaimed balances. Financial services firms are required in most jurisdictions to maintain records of dormant accounts and the steps taken to contact owners. Where not reunited and reclaimed, most jurisdictions aim to have escheated balances applied towards state-administered social impact projects that serve the public as a whole (infrastructure, healthcare education and social inclusion projects etc).

Currently in the EU, treatment varies widely depending on the Member State and asset class: different in-scope client types, dormancy thresholds, divergent reporting obligations and inconsistent end-uses for unclaimed assets. The level of enforcement and penalties for non-compliance with escheatment and reporting obligations differs. Some jurisdictions impose significant fines and conduct regular audits, while others may have less stringent enforcement mechanisms.

This patchwork across the EU's Single Market undermines both client and consumer protection, legal certainty for cross-border institutions and the efficient mobilisation of capital within the EU. The absence of an EU-wide framework on dormant assets and escheatment leaves these assets in a legal grey zone.

In contrast, the United States (US) has long operated under a harmonised system of escheatment laws across the 50 States and the District of Colombia. This comprehensive system provides a structured framework for the handling of unclaimed property across all asset classes and client types. Somewhat closer (at least geographically) the UK has one of the world's most developed dormant asset regimes (Dormant Bank and Building Society Accounts Act 2008, expanded in 2022 and operationalised since 2024).

A future harmonised EU rulebook, possibly by way of a maximum harmonisation directive, on dormant and unclaimed assets is overdue. Such a framework could strengthen the EU's Single Market, reinforce both the Banking Union and the Capital Markets Union (CMU), which since March 2025 has been rebranded as the Savings and Investments Union—(SIU) and deliver tangible benefits for citizens and residents in the EU (hereinafter shortened just to "citizens").

The question of whether a common EU rulebook on dormant and/or unclaimed assets is needed was last raised, in the European Parliament, in 2016 (during the first year of CMU).[1] The answer, perhaps delivered too brusquely, by the then Financial Services Commissioner and

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[1] Pirkko Ruohonen-Lerner, "Dormant bank accounts in Europe", *Parliamentary question* (European Parliament, 2016), available at: *https://www.europarl.europa.eu/doceo/document/E-8-2016-004628_EN.html*.

Commission Vice-President Valdis Dombrovskis,[2] declined a need for an EU legislative proposal on grounds of subsidiarity and ultimately the lack of significant political consensus.[3]

Much however has changed in the past 10 years. Ultimately the question now should be whether the current heterogenous framework applicable to dormant accounts, unclaimed assets and escheatment across the EU is indeed "too big to reform or instead too important to ignore". The (growing) numbers of dormant/unclaimed accounts and affected (especially cross-border mobile) citizens, as explored below, suggests that action could indeed be warranted.

This article examines the extent of the issue, acknowledging significant data gaps due to inconsistent reporting and a lack of comparability across jurisdictions. It provides an overview of selected national regulatory regimes within the fragmented European landscape and benchmarks the European status quo against both the US and UK models. The analysis further considers the implications for non-EU (specifically US and UK) financial services firms operating within the EU and their escheatment compliance considerations. The article concludes by evaluating the case for a harmonised pan-EU rulebook, outlining the potential features and benefits of such a framework.

The quantifiable scale of the problem in the EU

Reliable EU-wide statistics remain elusive mindful that not all assets are documented consistently let alone comparably. However, those available national estimates demonstrate the scale:

- Germany: dormant bank accounts are estimated at € 2 billion;[4]
- France: the Cour des comptes reported € 1.2 billion in dormant bank accounts[5] and a further € 2.76 billion in unclaimed life insurance policies.[6]
- Spain: the Treasury received €152.8 million over a decade from abandoned accounts.[7]

Taken together, these figures alone suggest a conservative lower bound of □6.1 billion in documented dormant or unclaimed assets across just three Member States. The true EU-wide figure is almost certainly far higher once unclaimed securities, pension entitlements, investment firm client monies/assets and emerging categories of asset classes such as crypto-assets are factored in.

Expansion of dormant asset regimes to new asset traditional financial services asset classes can also raise a considerable amount of unclaimed value that can be reunited or if not put towards the social good. As a comparative example, the expansion of the UK's own long-standing statutory scheme (as discussed below) in 2024 was reported as raising a potential extra GBP 880 million.[8] Moreover, as crypto-assets are, notably as a result of the efforts of the Law Society of England & Wales and case law being viewed as property rights dormant accounts (crypto-wallets) and/or assets (crypto-assets) standing to the account thereof, *bona vacantia* could apply thereto—albeit, in England & Wales and indeed the EU, even if escheatment/*bona vacantia* rights may be applicable according to the law, the state may not possess technical credentials to control the asset. Some regulatory approaches are assessing whether a holder (such as a regulated crypto-custodian) must convert such assets to fiat currency prior to applying escheatment and or *bona vacantia*.[9]

In the EU, even without an expansion to emerging asset classes, the total of household financial assets in 2023 (as recorded on 28 October 2024) were ca. €37,264 billion and the total value of financial liabilities were reported as €9,670 billion—showing that even billions in dormant/unclaimed items are not merely a small slice of total financial assets. It is noteworthy that the Eurostat data for 2023, shows that the assets of households in the EU were composed mainly of equity and investment fund shares (35.9%), currency and deposits (31.2%) and insurance, pensions and standardised guarantees (26.9%), whereas liabilities largely consisted of loans (92.1%).

[2] Pirkko Ruohonen-Lerner, "Answer given by Vice-President Dombrovskis on behalf of the Commission", *Parliamentary question* (European Parliament, 2016), available at: *https://www.europarl.europa.eu/doceo/document/E-8-2016-004628-ASW_EN.html*.

[3] The principle of subsidiarity, enshrined in art.5 of the Treaty on European Union, dictates that the EU should only act where objectives cannot be sufficiently achieved by Member States. Dormant accounts and escheatment have traditionally been seen as matters closely linked to property law, inheritance and consumer protection—areas where Member States retain significant autonomy. As a result, the EU has generally deferred to national legal frameworks, each, as explored below have currently jurisdictional specifics. Harmonising these diverse approaches would require significant political consensus, which at the time had not materialised. While the EU has competence to legislate in areas affecting the internal market, dormant accounts are typically only seen as a domestic issue. The cross-border dimension—such as accounts held by non-residents or cross-border inheritance—has not been sufficiently prominent to justify EU-level intervention—the numbers since 2023 tell a different story. The lack of significant cross-border problems has reduced the impetus for harmonisation. In many instances the EU and the European Supervisory Authorities used other legislation, such as those focusing on anti-money laundering, payment services and investor protection reforms to require financial institutions to maintain up-to-date customer information and monitor account activity, which indirectly addresses dormant account risks.

[4] Listen to "Financing Impact - Dormant Assets" available at: *https://esmt.berlin/knowledge/podcast/dormant-assets*.

[5] See Here : *https://www.ccomptes.fr/sites/default/files/2023-10/Dormant-bank-assets-and-unclaimed-life-insurance-policies-vol-2.pdf*.

[6] "See Cour des comptes' 2019 Annual Public Report - Volume II - Follow up Recommendations" available at: *https://www.ccomptes.fr/sites/default/files/2023-10/Dormant-bank-assets-and-unclaimed-life-insurance-policies-vol-2.pdf*.

[7] El País, "El Tesoro ingresa 152,8 millones en una década por cuentas y depósitos olvidados" (2024), reporting on Spanish Treasury receipts.

[8] Huw Jones, "Britain to tap $1 bln of 'dormant' cash for social and green projects", *Reuters* (2024), available at: *https://www.reuters.com/sustainability/sustainable-finance-reporting/britain-tap-1-bln-dormant-cash-social-green-projects-2024-08-02/*.

[9] This question and much else is explored by Vladimir Troitsky in "Unclaimed (Unowned) Digital Assets: Addressing the Legal Implications of Absent or Unknown Ownership", Vol.16 (Elon Law Review, 2024), available at: *https://eloncdn.blob.core.windows.net/eu3/sites/996/2024/02/Troitsky.pdf*.

More importantly, these household assets and liabilities are not merely confined within Member State's territories. According to Eurostat,[10] in 2024 over 14 million EU citizens live in a Member State other than their own and millions more work or study abroad each year—56% of all EU citizens engage in cross-border services including financial services. 44.7 million people living in the EU were born outside the EU and 29.9 million people were non-EU citizens—many with linkages to financial services from outside provided into the EU. Regardless of nationality many household members in the EU open bank accounts in respective EU host countries and may lose track of them upon returning home (virtually or physically)—whether that home is within or outside the EU.

The problem is not only quantitative. It is also legal and systemic: each Member State defines and handles dormancy differently, with inconsistent reporting obligations, consumer outreach rules and end-destinations for assets that remain unclaimed. Without a central register or harmonised process, reclaiming dormant funds from another Member State is complex, time-consuming and often unsuccessful. This disproportionately affects mobile EU citizens and their legal rights under the EU Treaties which override subsidiarity. So too do the duplicative and often competing patchwork of national rules on the operations of financial institutions, which have the potential to yield higher operational costs, many of which are ultimately passed on to consumers and thus may pose a deterrent to cross-border services in the Single Market.

A fragmented European landscape of rules

Today's framework across Europe (not just the EU) is characterised by fragmentation in what is covered by rules (where they exist) but how equally how relevant exposures are reported under those rules:

- **Different definitions and dormancy periods.**

  Countries and sectors (banks, life insurers, investment firms, securities depositories, public treasuries) use different inactivity thresholds and different rules for when property is declared "unclaimed" or transferred to a public body. "Dormant" may mean 3 years of inactivity in one jurisdiction, 15 in another.

- **Sectoral silos:**

  some regimes cover only deposits, while others extend to life insurance or pensions. Dormancy varies here too.

- **Varied end-destinations:**

  unclaimed funds may escheat to state treasuries, special solidarity funds, or remain indefinitely on the balance sheets of institutions.

- **Unequal consumer safeguards:**

  tracing obligations and owner notification rules vary widely, leaving citizens in some EU Member States far less protected than others. Some apply to just retail clients and others to just to institutional clients (and some only to small and medium sized enterprises) and some to both institutional and retail clients).

- **Fragmented data collection.**

  National registers (where they exist) are held by different authorities (ministries, courts, deposit insurance bodies, centralised "escheat" services) and are not harmonised or aggregated at EU level.

- **Timeliness & transparency.**

  Many available figures are from audits or scholarly work that are episodic (not continuously updated). Some categories (e.g., unclaimed securities, client money/assets held by investment firms) are only recently being reported or regulated.

This patchwork imposes compliance costs on cross-border financial institutions, deters efficient consolidation of financial services in the Single Market and leaves citizens without a consistent baseline of rights.

Selected examples from certain Member States

At present, the EU's approach is best described as regulatory silence, punctuated by national initiatives. As an example:

France—rules apply to retail and non-retail clients

French law (notably the Loi Eckert, Law No. 2014-617) requires banks to identify inactive bank accounts and safe deposit boxes.

A bank account is considered inactive if, after a period of 12 months, the following two conditions are met: (1) the account has not been subject to any transaction other than interest and charges made by the bank in respect of expenses and fees of any kind, payments for products or reimbursement of capital or credit of securities and (2) the account holder, their legal representative or the person

[10] "EU population diversity by citizenship and country of birth" Statistics Explained (Eurostat, February 2025), available at: *https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_population_diversity_by_citizenship_and_country_of_birth*.

empowered by the latter has not visited the premises in any way in connection with either this account or any other account open to their name. The term is extended to five years for securities accounts, passbook accounts, fixed-term accounts and accounts opened within the savings products framework. As the amounts deposited in these types of accounts are not available for a certain period under legal or conventional provisions, the five-year period commences at the end of the period of non-availability.

If an account is legally inactive, the bank must notify the account holder or their successors. This is done once when inactivity is identified and then annually. Account holders can contact the bank to reactivate their accounts.

Funds in inactive bank accounts must be transferred to the Caisse des Dépôts et Consignations (CDC) after a period of ten years of inactivity (three years for deceased account holders). The CDC holds the funds for 20 years, after which they are transferred to the French State if unclaimed in that period.

Ireland—rules apply to retail and non-retail clients

Ireland's Dormant Accounts Act 2001 and Unclaimed Life Assurance Policies Act 2003 require financial institutions to transfer funds from dormant accounts to the Dormant Account Fund managed by the National Treasury Management Agency. Accounts are considered dormant after 15 years of inactivity (7 years for certain insurance policies). Banks must notify account holders, report dormant accounts and transfer funds to the Dormant Accounts Fund. Owners can reclaim funds at any time.

Importantly, despite the shared legal heritage between Ireland and the UK, Ireland does recognise the doctrine of *bona vacantia* but its application is limited to intestate estates and in the case of dissolved companies under the Companies Act 2014, whereby any property or rights owned at the time of dissolution become *bona vacantia* and vest in the Minister for Public Expenditure, National Development Plan Delivery and Reform (previously the Minister for Finance). The Minister may then dispose of or deal with the property as they see fit.

Italy—rules apply to retail and non-retail clients

Italian law (Legislative Decree No. 116/2007) requires banks to transfer dormant accounts to a government fund managed by CONSAP S.p.A, which reports to the Ministry of Economy and Finance. A dormant account is defined as a bank or postal account (with a balance over €100), savings book, bond, or other financial instrument that has remained inactive (no customer-initiated activity) for a period of 10 years. Once balances are entrusted to CONSAP the funds remain frozen for a further 10 years. At the end of this further period, the sums are allocated to another fund dedicated to the compensation of victims of financial fraud.

Luxembourg—rules generally do not apply to non-retail clients

Luxembourg's law of 30 March 2022 on inactive accounts, safe-deposit boxes and unclaimed insurance contracts requires transfer of assets after 10 years of inactivity. This 2022 law replaces an earlier law from 2017. An account is generally considered dormant if there has been no activity initiated by the account holder for six years.

After an account becomes inactive the bank must make contact attempts to inform the account holder or their heirs. If the contact is unsuccessful after a specified period (which may vary by product), the assets must be deposited with the Caisse de Consignation (CSC) as the body responsible for managing unclaimed assets. Banks must comply with annual reporting requirements to the Luxembourg financial services regulator (CSSF) on the number and total balance of inactive accounts.

Inequality through individuality

This (national-driven siloed) patchwork creates problems of legal certainty, particularly for cross-border financial institutions that must reconcile divergent national rules. Consumers are left with unequal levels of protection depending on the jurisdiction in which they operate in the EU let alone how that compares to their host jurisdiction—such as the US or the UK—as well as having to navigate conflicts of laws issues that arise

More fundamentally, with this patchwork the EU forfeits the opportunity to redeploy billions of euros in dormant wealth towards pan-European social and green projects, in line with its broader policy objectives under the Green Deal and the SIU.

The US contrast: a functional model

The United States offers a useful comparator to the EU's 27 Member States. All 50 US states and the District of Columbia have unclaimed property laws (*escheatment*), which apply broadly to both individuals and business entities. There is no general exemption for non-retail clients. Although administered at the state level, the US-wide regime has for decades operated under a clear framework of *escheatment* laws that operate on the following common principles:

1. Defined dormancy periods (typically 3–5 years).
2. Mandatory reporting and transfer of unclaimed property to state authorities.
3. Centralised registries (e.g., *MissingMoney.com*), allowing citizens to search across states.
4. Public use of assets until reclaimed, with a perpetual right of recovery for owners.

5. The US has developed rules (e.g., the “priority rules” from the *Supreme Court’s Texas v New Jersey* case) to determine which state has the right to escheat property when multiple US states could claim it.

These maximum harmonisation principles flow from the Uniform Unclaimed Property Act (UUPA), which provides a model for states to follow. While not all states have adopted the UUPA verbatim, it has promoted a degree of consistency in definitions, dormancy periods and procedures as well as an easy to navigate recourse for retail and non-retail clients alike.

In the US, escheatment does not extinguish the owner’s rights; eligible owners can reclaim their property from the state at any time, even after escheatment. Until reclaimed, US states often use escheated funds for public purposes (e.g., education, infrastructure) but are required to maintain records and allow for claims. More crucially, US states are required to make reasonable efforts to contact owners before escheatment and many run public awareness campaigns. This has led to higher rates of asset reunification.

Moreover, the US operates the National Association of Unclaimed Property Administrators (NAUPA) and the website MissingMoney.com, which aggregate unclaimed property data from most states. This allows individuals to search for unclaimed assets nationwide in a single place.

The US framework balances legal certainty for institutions, transparency for owners and consumers and productive redeployment of dormant capital. It also provides a uniform compliance model across a large federal market while respecting jurisdiction-specifics for individual states. The US experience also shows that leveraging technology—such as online claims portals, electronic notifications and data matching—improves efficiency and consumer outcomes.

The UK contrast: a dual-track system

The UK offers two instructive models for the EU: its modern statutory dormant assets scheme and its historic common law doctrine of *bona vacantia*. *Bona vacantia* as a legal doctrine exists in a number of common law jurisdictions (save for Ireland). The UK’s statutory regime generally applies to retail clients only however *bona vacantia* will also apply to non-retail clients.

The Dormant Assets Scheme

The UK established a comprehensive dormant asset regime under the Dormant Bank and Building Society Accounts Act 2008, as amended and as later expanded in 2022 and operationalised in 2024 to cover insurance, pensions, investments and securities. Key features of this statutory regime include:

1. **Uniform dormancy threshold:**

   15 years of inactivity.

2. **Voluntary participation:**

   institutions must transfer dormant funds to the Reclaim Fund Limited (RFL), a government backed entity.

3. **Reallocation of assets:**

   transferred assets are used for social and environmental projects through the UK’s Dormant Assets Scheme.

4. **Perpetual reclaim rights:**

   owners and heirs can reclaim funds at any time.

5. **Strong transparency:**

   Banks must comply with all reporting requirements set by the Financial Conduct Authority (FCA) and the RFL, including: (i) Annual reporting on dormant account activity; (ii) Providing information on the number and value of accounts transferred; and (iii) Cooperating with audits or regulatory reviews

The UK model demonstrates that a well-designed framework can deliver legal certainty, consumer protection and social benefits while respecting institutional flexibility. It also shows how a mature financial market can balance private ownership with public interest outcomes.

The UK’s Bona Vacantia Regime

Alongside the statutory scheme, the UK operates the common law doctrine of *bona vacantia* (“ownerless goods”). Where property has no legal owner—for instance, when companies are dissolved with residual assets, or when individuals die intestate without heirs—it passes to the Crown, the Duchy of Lancaster or the Duchy of Cornwall.

The Bona Vacantia Division of the UK Government Legal Department administers such property. While much is modest in value, significant corporate and personal assets can vest in the state under this doctrine.

Importantly:

- There is no unified EU equivalent to bona vacantia; succession and property laws vary widely across Member States.
- The UK regime highlights how unclaimed wealth can be treated as ownerless and transferred to the state under clear rules, in contrast to the EU’s patchwork.
- The doctrine complements, rather than duplicates, the Dormant Assets Scheme, ensuring that both *ownerless* and *inactive* assets are addressed.

The UK model demonstrates two complementary insights:

1. **Modern statutory scheme:**

   Dormant financial assets can be mobilised transparently for public good while preserving perpetual reclamation rights.

2. **Historic common law doctrine:**

   Bona vacantia provides a legal "safety net" for truly ownerless assets, ensuring no wealth remains indefinitely without legal treatment.

For the EU, this dual-track system illustrates the importance of both a forward-looking framework for dormant assets and clear rules on the treatment of property that is definitively without an owner.

Moreover and in contrast to *bona vacantia*, the EU's civil law jurisdictions deal with unowned property in fragmented ways:

- *Succession law* is heavily decentralised. Some Member States allow the state to inherit if there are no heirs, others provide for municipal authorities or charitable entities.
- *Company law* treatment of dissolved corporate assets also varies: some states allow creditors or shareholders to claim residual property for extended periods, while others transfer it to treasuries.
- *Constitutional traditions* differ on whether the state can automatically take possession of property without explicit statutory transfer.

This diversity means there is no single EU-wide concept of "ownerless goods". The absence of such a doctrine reflects the broader limits of the EU's legislative mandate in private law: succession and property law remain largely reserved to Member States under the EU's Treaties. Thus, while the EU may not be able to import *bona vacantia* wholesale, a functional equivalent could be created for dormant and unclaimed assets that fall within EU competence as discussed below. Similarly, a conflicts of law regime as in existence in both the US and UK will equally be relevant to any operation under the current regimes across individual EU Member States and more so in the event of harmonisation under a common rulebook.

General conflicts of laws issues and practical considerations

There are generally no international treaties governing escheatment or unclaimed property. Each jurisdiction applies its own laws and conflicts are resolved based on principles of territoriality and public policy. In general, a specific jurisdictions escheatment laws do not override the requirements of foreign jurisdictions for accounts held abroad. Standard conflicts of laws rules apply.

In the context of unclaimed property, conflicts may arise when a bank (for example a US chartered bank) holds an account for a non-US resident in the US or when assets are located in one country but the account holder is domiciled in another. While much will depend on the precise circumstances, the following general principles apply in resolving conflicts of laws:

- The law of the place where the property is located (the "*situs*") generally governs the disposition of that property, including escheatment. For bank accounts, the situs is typically considered the location of the branch or subsidiary where the account is maintained.
- Each jurisdiction asserts authority over property located within their borders, regardless of the owner's nationality or the bank's home country.
- Some rules, such as those governing unclaimed property, are considered matters of public policy and are mandatory in their jurisdiction. Local regulators will not defer to foreign law if it would undermine local public policy. This is specifically the case for super-preferential rights of say tax authorities.

The above raises a number of practical points—notably driven by how a bank's operations are structured and where accounts are booked i.e., determining the situs, namely:

- A branch must comply with the host country's escheatment or unclaimed property laws for accounts and assets held locally. However, because it is not a separate legal entity, there may be additional scrutiny or requirements from both the home (in the hypothetical scenario the US) and host (i.e. respective EU Member State) regulators, especially regarding cross-border reporting, capital requirements and customer protection. Dual reporting or reconciliation between US and host country standards may apply.
- A subsidiary is fully subject to the host country's laws, including all requirements for dormant accounts, customer notification, reporting and remittance of unclaimed funds. The US parent's home country laws generally do not apply to the subsidiary's local operations, except in limited circumstances (such as group-wide risk management or anti-money laundering requirements). A subsidiary's escheatment compliance is primarily focused on local requirements and it is directly accountable to local regulators.

- Even if a US state claims escheatment rights over an account held abroad, the foreign jurisdiction is unlikely to recognise or enforce that claim if it conflicts with its own laws. Conversely, if a foreign country claims escheatment over an account held in the US, US courts and regulators are unlikely to enforce that claim—instead US escheatment laws will apply.
- In rare cases, both the US and a foreign jurisdiction might claim escheatment rights. In practice, the country where the property is physically located (or where the account is maintained) will have the stronger claim and the bank will comply with that jurisdiction's law.

Further issues also arise where a bank only holds indirect (retail) client obligations. These can be summarised as follows:

- In most jurisdictions, the entity with the direct relationship to the retail client (the entity is the "account holder of record") is responsible for identifying dormant accounts and complying with escheatment or dormant account laws.
- Where a bank does not hold retail clients directly, but only indirectly (for example, by acting as a custodian, trustee, or providing services to institutional clients who themselves have the direct relationship with retail clients), the application of escheatment laws and obligations can change significantly. The key issue is the nature of the bank's relationship with the assets and the ultimate beneficial owners.
- Where a custodian holds assets in its own name for the benefit of another financial institution (such as a fund manager, broker, or another bank) and that institution in turn holds the assets for retail clients, the Custodian is not the "holder" of the retail client relationship for escheatment purposes. In a custodial or trustee capacity, the entity is typically responsible for safeguarding assets on behalf of its institutional clients, not the underlying retail clients. The obligations would generally be limited to providing information or assistance to its institutional clients, as required by contract or regulation, to enable them to fulfil their own escheatment obligations.
- Equally a custodian may have contractual obligations to assist institutional clients in identifying dormant accounts or providing information about underlying beneficial owners, but the legal escheatment obligation remains with the direct account holder.
- In some jurisdictions, regulators may expect custodians to have processes in place to support anti-money laundering and dormant account monitoring, but this does not extend to escheatment unless the custodian is the direct account holder. In rare cases, local law or regulation may impose "look-through" obligations, requiring custodians to report on or transfer assets relating to underlying beneficial owners. Moreover, for certain types of assets (e.g., unclaimed dividends, trust property), specific rules may apply and the role of the custodian or trustee may be more directly engaged.

Why the EU needs a common rulebook

As explored above, the US shows how harmonised escheatment can deliver legal certainty and transparency. The UK shows how a modern dormant assets regime can coexist with the centuries-old common law doctrine of *bona vacantia*, ensuring that both inactive and truly ownerless property are addressed within a structured legal framework. By contrast, the EU remains fragmented, with billions of euros trapped in inconsistent national systems. A maximum harmonisation directive would eliminate divergences, reinforce the Single Market, strengthen the Banking Union and SIU and ensure that EU citizens are protected equally.

1. Reinforcing the Single Market

A harmonised EU framework would eliminate legal uncertainty and regulatory divergence, providing uniform definitions, reporting standards and consumer rights. This could:

- Reduce compliance complexity for banks, insurers and asset managers operating cross-border.
- Facilitate the free movement of financial services by ensuring institutions are not subject to conflicting obligations.
- Enhance trust in the Single Market by guaranteeing citizens equal treatment regardless of their Member State.

2. Strengthening the Banking Union

Dormant accounts left on banks' balance sheets create supervisory blind spots. An EU regime could:

- Ensure consistent removal of unclaimed deposits from banks' liabilities after a defined period, strengthening balance-sheet transparency.

- Reduce litigation risk by clarifying institutions' obligations to notify and transfer assets.
- Provide supervisors with accurate cross-EU data on the scale of dormant deposits, improving prudential oversight under the Banking Union's Single Supervisory Mechanism (SSM).

3. Advancing the SIU

Unclaimed securities, life policies and pensions represent frozen capital. An EU-wide regime could:

- Unlock billions in dormant wealth that could be redirected to social, green or infrastructure projects in line with EU priorities.
- Enhance retail investor confidence in cross-border savings and investment products by ensuring consistent protection if assets go unclaimed.
- Strengthen the credibility of the SIU by showing that Europe can manage its financial markets holistically, including legacy and "forgotten" assets.

4. Supporting citizens

For ordinary citizens, the absence of a harmonised framework means:

- No EU-wide search facility for forgotten accounts or policies.
- Unequal notification obligations by financial institutions depending on where they live.
- Loss of potential entitlements, pensions or savings.

An EU register of unclaimed assets would empower citizens to locate and reclaim dormant funds across borders, restoring trust in the financial system and strengthening the EU's social contract. Applying this to a hypothetical case study is proof in point.

Suppose a dual Austrian/American national residing in Germany, Mr. H., who lived and worked in Paris in the early 2000's. He opened a current account at a French subsidiary of a UK bank, later moved back to Frankfurt and lost track of the account. In 2025, he recalls its existence and tries to recover the funds.

Under today's fragmented system in the EU—Mr. H must first identify which French bank holds the account—there is no EU-wide or central French register available to him. Even if he locates the bank, he must comply with French national procedures for proving identity and ownership, typically requiring in-person representation or local legal counsel. If the account has been classified as dormant under French rules, it may already have been transferred to the French Caisse des Dépôts et Consignations, which has its own separate reclamation procedure. Recovery is therefore time-consuming, costly and uncertain, often discouraging EU citizens (in particular those from another Member State) from pursuing small-value claims domestically let alone cross-border.

Under a harmonised EU system, Mr. H could be happier. He could search his name in the EU Pan-European Dormant Assets Register, maintained by the EBA and linked with French authorities. The register would confirm a dormant account exists in his name and provides a multilingual, standardised online claim form. His identity is verified electronically through an EU-wide interoperable system (building on eIDAS 2.0). The claim is automatically routed to the French national dormant asset fund and the funds are transferred to his German bank account. The entire process is cost-capped, transparent and conducted remotely, ensuring access even for modest sums.

Such a harmonised pan-EU wide approach would transform dormant asset recovery from a national, fragmented and often prohibitive exercise into a citizen-friendly, cross-border right. This not only empowers individuals but also strengthens confidence in the EU's financial integration project that is the Single Market and the respective freedoms (certainly of movement, establishment and capital). In order to be successful, some key elements for such a future EU-wide rulebook would need to be set.

Key elements of a future EU-wide rulebook

An effective EU rulebook should include the following legislative, regulatory and supervisory aims:

1. Harmonised definitions and dormancy triggers

- Uniform dormancy periods across all asset classes (bank deposits, securities, life insurance, pensions, investment firm client money/asset accounts, crypto-assets) to prevent confusion and legal fragmentation.
- Clear definitions of what constitutes an "unclaimed" asset versus a "bona fide dormant" asset.
- Establishing harmonised triggers for dormancy classification (after 5 years) and transfer to national dormant assets funds (after 10 years).
- Mandatory written notification (by electronic and non-electronic means) and tracing duties for financial institutions.
- Citizens and institutions should be able to know exactly when an asset becomes subject to tracking and reporting obligations, regardless of which Member

State holds the account. Proactive awareness campaigns could help support that awareness.
- Conflict of laws issues would be considerably reduced (within the EU) and equally with respect to financial institutions operating from outside the EU into the EU.

2. Pan-EU unclaimed assets register

- Creation of a central EU register maintained by the European Banking Authority (EBA), integrating (existing and newly created) national dormant asset registers. Such central register should be searchable, multilingual interface accessible to EU citizens, heirs and legal representatives. This would allow individuals to search for unclaimed assets across Member States, supporting tracing, cross-border mobility and inheritance but equally assist in preventing fraud.
- Technical standards to allow real-time reporting and updating by financial institutions across Member States.
- Citizens should be able to identify and reclaim assets held anywhere in the EU, respecting jurisdiction-specifics but bridging national silos.

3. Mandatory cross-border notification and tracing obligations

- Institutions must notify the owner or legal beneficiaries using contact information on file and, where necessary, coordinate with authorities in the owner's Member State of residence.
- Obligation to share data across national competent authorities (NCAs) using harmonised templates and secure EU-wide IT systems.
- Incentives (or penalties) to ensure active tracing is conducted prior to transfer to national dormant asset funds.
- These rules should ensure citizens can be reached across borders, reducing the likelihood of assets becoming permanently "lost".

4. Harmonised transfer rules to national dormant asset funds

- After a defined dormancy period (e.g., 10 years), unclaimed assets must be transferred to the national dormant asset fund, with perpetual reclamation rights (even after transfer to national dormant asset fund) retained by owners or heirs.
- Standardised legal framework ensures funds in one Member State are legally available for recovery by citizens from another Member State.
- Such rules provide for legal certainty for cross-border claims and avoids situations where assets are trapped indefinitely in foreign jurisdictions.

5. Common legal framework for cross-border claims

- EU-wide rules clarifying jurisdiction, applicable law and procedural mechanisms for reclaiming assets held in another Member State.
- Establishment of simplified administrative or online claim procedures to reduce barriers for citizens seeking foreign assets.
- Obligation on NCAs to cooperate and, if necessary, act as intermediaries for foreign claimants. This may eliminate the need for citizens to hire lawyers in the country where assets are held, making the system more accessible and efficient.

6. Technical standards and interoperability

- Adoption of common IT standards for registers with respect to reporting, notifications claims and communications with financial institutions.
- Secure interoperability between individual national authorities and with the EU-level central register.
- Standardised formats for identity verification, proof of ownership, claims and electronic communication which minimises friction, ensures timely processing and prevents disputes over authenticity or ownership verification of citizens.

7. Supervision and enforcement

- Supervision and enforcement oversight of NCAs and institutions should come from the EBA, the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) as well as the mandate to set further technical standards, including but not limited to reporting and disclosure.
- NCAs must supervise cross-border compliance by institutions and report to the European Commission and EBA.
- Harmonised penalties for non-compliance to incentivise timely notification, reporting and fund transfer. This strengthens

institutional accountability, ensuring the cross-border framework works in practice rather than remaining aspirational.

8. Optional harmonisation of fees and costs

- An EU directive could cap or standardise fees for cross-border asset reclamation to prevent financial barriers.
- This ensures equitable access, particularly for small-value accounts. Moreover, citizens are not discouraged from reclaiming assets because of cost or complexity, which is particularly important for low-value deposits or insurance policies.

9. Integration with other EU frameworks

- Align reporting, data protection and tracing mechanisms with MiFID II/MiFIR, PSD2 and AML/CFT obligations to avoid duplication.
- Ensure dormant asset recovery does not conflict with ongoing insolvency or succession procedures. This avoids legal conflicts, reduces administrative burden and integrates dormant asset recovery into existing EU financial infrastructure.

Such EU rulebook should ideally be delivered on a "maximum harmonisation approach" by way of an EU directive. This ensure that Member States cannot adopt diverging or stricter national regimes, thereby eliminating fragmentation. This creates true legal certainty and a level playing field for institutions and consumers across the EU.

One might ask: why not adopt a directly applicable Regulation? There are perhaps three main reasons that favour an EU Directive:

1. **Institutional capacity:**

   Member States have very different administrative infrastructures for handling dormant assets (treasuries, courts, registries, public funds). An EU directive allows each to designate or adapt measures as well as NCAs within an EU-wide harmonised framework.

2. **Legal tradition:**

   Dormant assets straddle private law (ownership, succession) and financial regulation. These areas remain sensitive to national traditions. A directive provides common substantive rules while respecting procedural and institutional diversity.

3. **Political feasibility:**

   A directive requiring transposition but imposing maximum harmonisation avoids "gold-plating" while recognising national prerogatives—striking a pragmatic balance likely to secure Council and Parliament support.

In short, a maximum harmonisation Directive combines the best of both worlds: legal certainty across the Single Market with flexibility in institutional implementation. It could take the form as follows:

Directive [20XX/XX/EU] on Dormant and Unclaimed Assets

Chapter I—General Provisions

- *Article 1*: Subject matter—establishes uniform rules for the treatment of dormant and unclaimed assets across the Union.
- *Article 2*: Scope—applies to bank deposits, securities, life insurance, pension entitlements, investment firm client monies/assets and crypto-assets.
- *Article 3*: Definitions—"dormant asset" (no customer-initiated activity for 5 years), "owner", "beneficiary", "transfer".
- *Article 4*: Maximum harmonisation—Member States may not maintain or introduce provisions diverging from this Directive.

Chapter II—Dormancy and Reporting

- *Article 5*: Standardised dormancy threshold of 5 years across all covered asset classes.
- *Article 6*: Mandatory owner notification by institutions before dormancy classification.
- *Article 7*: Annual reporting to national competent authorities, using harmonised templates.

Chapter III—Registers and Transparency

- *Article 8*: Member States to establish national dormant asset registers.
- *Article 9*: Creation of a central EU register maintained by the EBA, accessible in all EU languages.

Chapter IV—Transfer and Use

- *Article 10*: Transfer of unclaimed assets after 10 years of inactivity to a designated national dormant assets fund.
- *Article 11*: Use of transferred assets for social, environmental, or cohesion objectives, consistent with EU law.
- *Article 12*: Perpetual right of owners or heirs to reclaim assets.

Chapter V—Supervision and Enforcement

- *Article 13*: Oversight by EBA, ESMA and EIOPA.
- *Article 14*: Sanctions for non-compliance by institutions.
- *Article 15*: Annual reporting to the European Commission on national dormant asset stocks and uses.

Chapter VI—Final Provisions

- *Article 16*: Implementation deadline (two years after entry into force).
- *Article 17*: Review clause after five years.

In summary, consistent treatment of dormant deposits and unclaimed investments across the EU would improve prudential transparency, reduce litigation risk and unlock capital for redeployment. A maximum harmonisation directive ensures supervisory convergence under the Banking Union's SSM and ESMA/EIOPA oversight, supporting the broader objectives of the Banking Union and the SIU. Moreover, a pan-EU register backed by harmonised obligations would guarantee that citizens, irrespective of their Member State of residence, enjoy the same rights to notification, tracing and eventual reclamation.

Conclusion

The EU has harmonised prudential banking rules under the CRR/CRD, created the Banking Union and launched the Capital Markets Union. Yet on dormant and unclaimed assets, it remains silent. The contrast with the United States demonstrates that a structured, harmonised framework can simultaneously enhance consumer protection, reduce institutional compliance costs and channel dormant wealth towards public good.

A dedicated EU rulebook on dormant and unclaimed assets is therefore not only desirable but essential. It would fill a longstanding regulatory gap, reinforce the EU's flagship integration projects and deliver tangible practical benefits for its citizens.