

## **INTRODUCTION**

The importance of an efficient and well-functioning financial system to a country's economic growth and development today is widely recognised and appreciated. The 2008 global financial crisis brought the world largest economies and other countries to undertake collective actions to safeguard the financial sector and bolster public confidence. The financial system plays an important role in the development process—particularly through the financial intermediation process. The work done to reform and deepen the financial sector on the African continent is centred around the recognition of its significance in the driving of economies and changing the fortunes of many lives. In this regard, one of the areas that need attention is in the management of unclaimed financial assets. Savings and deposits institutions, banks, brokerage firms and pensions schemes are the ones that are holding these resources and it is therefore proper to institute mechanisms and measures that will ensure increased access, transparency, accountability and efficiency. This will streamline the process and structures and thus facilitate owners to know and have more so access these assets.

## **UNDERSTANDING UNCLAIMED FINANCIAL ASSETS**

The issue of unclaimed financial assets has been recognised globally as an ethical, governance and development problem needing urgent attention in the form of regulatory frameworks and sensitisation of the populace. Under the legal principle of *bona vacantia*, the Government is the bona fide custodian of unclaimed property in any modern state. As such, many developed countries have developed explicit policy frameworks for the management of unclaimed financial assets.

International best practice includes the management of information and data related to such assets. This typically entails the identification of unclaimed financial assets according to prescribed definitions as well as the segregation, reporting and remittance of such assets into a central reclaim fund and the establishment of an *unclaimed assets agency* to regulate and manage these assets. The portion of remitted funds in excess of those required to meet claims of asset owners is invested for social, community, and economic benefit.

Unclaimed Financial Assets are a phenomenon of a market economy, and not unique to any country. Some of the reasons that have been identified as the cause of unclaimed assets includes; Death;; Poor record keeping; Relocation regionally or globally/overseas; Ignorance, Negligence and even forgetfulness. In Africa, the culture of record keeping is not engrained, and people seldom write wills and there are huge assets lying because the rightful owners can not be traced. Such assets are usually as a subject of targeted fraud and there are even companies that write them back as profits when they don't trace their rightful owners.

Most developed counties have explicit policy frameworks for managing unclaimed financial assets. Best practice in the management of such assets include the establishment of frameworks that meet the following thresholds;

- i. Holders – identification of unclaimed financial assets according to prescribed definitions;
- ii. Owners – perpetual right to reunification
- iii. Institutions – segregation & ring-fencing of funds, and mandatory reporting

- iv. Investment – remittance to & management of funds by and institution, that subsequently invests for social, community and economic benefit

Countries like Australia, Canada, UK, Ireland, Malaysia, Kenya, New Zealand and the United States have made major strides in the management of unclaimed assets and Zambia can borrow from their experiences. The following pictorial illustration of countries that have established unclaimed assets regimes in the globe.

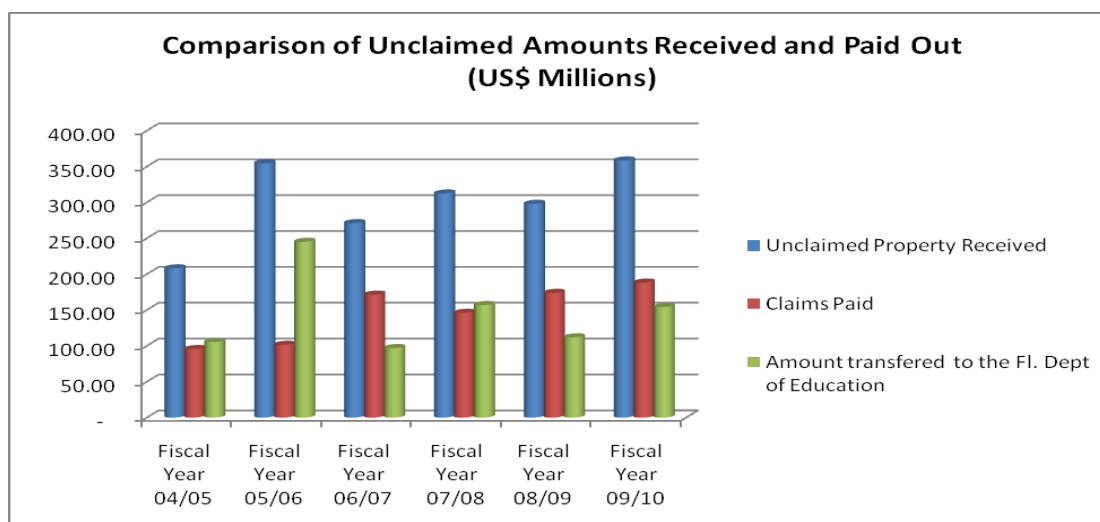


#### **US EXPERIENCE: STATE OF FLORIDA**

In the State of Florida (US) for example, an unclaimed assets regime was established in 1961 and so far, the Florida Department of Financial Services, Bureau of Unclaimed Property has made tremendous progress. Unclaimed Property accounts always remain claimable – indefinitely. Until claimed, however, the funds are used to help support Florida’s public schools. The following is a summary of how it has performed thus far;

- Received **Since Program Inception - \$ 3.7 Billion**
- Claims Paid **Since Program Inception - \$1.6 Billion**
- Net \$ Transferred to Florida Department of Education **Since Program Inception - \$2.0 Billion**

**Figure 1: Unclaimed Assets in the State of Florida FY 2004/05-2009/2010**



## KENYAN EXPERIENCE

In its efforts to address the lack of an elaborate legal regime to manage unclaimed financial assets, the Ministry of Finance in Kenya appointed a Taskforce in 2008 to carry out a baseline survey to find out the extent of the problem and where possible make recommendations. The Taskforce surveyed institutions in the Banking, Capital Markets, and Insurance sectors. The total amount of reported unclaimed assets amounted to KSh.9.1 billion. Of this total, banks reported KSh.7.4 billion, listed companies KSh.1.5 billion, insurance companies KSh.283 million, The National Social Security Fund (NSSF), which falls within the Pensions category, reported Kshs. 243 million. The Kenya Power and Lighting Company (KPLC), was categorized within the utility firms and it reported a total of KSh.66.8 million. The taskforce concluded that the reported totals of unclaimed assets were far below what was estimated.

The Unclaimed Financial Assets Authority (UFAA) was established pursuant to the Unclaimed Financial Assets Act No. 40 of 2011, Laws of Kenya. The Act provides a legislative framework for dealing with unclaimed financial assets. The need for this law was occasioned by the perceived colossal sums of unclaimed assets being held by individual institutions in Kenya. The Board of Directors to UFAA was appointed under Legal Notice No.16272 of 9<sup>th</sup> November 2012

Section 48 of the Unclaimed Financial Assets Act 2011

The Authority has so far received claims amounting to KShs. 421.2 million and 1,227,585 units of shares from 6,667 claimants. Out of these, claims amounting to 166.9 million and 908,107 units of shares have been paid to 2,125 claimants. (<https://www.ufaa.go.ke/index.php/component/content/category/90-trust-fund>)

**Table 1: Unclaimed Financial Assets Proceeds (unaudited financial statements for the year ended 30<sup>th</sup> June, 2015)**

Institution type	Amount KSh.000
Commercial Banks	1,897,937

Listed companies	645,102
Insurance Companies	449,257
Telecommunication Companies	187,306
National Debt Office	87,113
<b>Total</b>	<b>3,266,715</b>
<b>Less: Amount invested</b>	<b>3,203,818</b>
<b>Cash balance</b>	<b>10,302</b>
<b>Receivable</b>	<b>52,595</b>

\*UFAA Accounts

**Table 2: Status of the trust fund as at 31 March 2019**

Asset type		Amount KShs.
<b>CASH</b>	Cash remitted	13,489,576,169.30
	FOREX reported	65,192,442.25*
<b>Total</b>		<b>13,554,768,611.55</b>
<b>UNIT TRUST</b>	<b>Volume</b>	8,151,824.26 units
	<b>Estimated value (Kshs.)</b>	18,060,061.61
<b>SHARES</b>	<b>Volume</b>	564,017,982 units
	<b>Estimated value (Kshs.)</b>	25,756,988,673.64*
<b>Total estimated Fund value</b>		<b>39,329,817,346.80 **</b>

And 1,454 Safe deposit boxes

NB: \* denotes estimated value at prevailing market rate.

\*\* denotes estimated Fund Value for assets remitted and reported.

\*Source: <https://www.ufaa.go.ke/index.php/trustfund> accessed on 4th June 2020

**Table 4: Sectoral Performance as a percentage of Fund Value**

Description	Year		
	2014	2015	2016
<b>Sector</b>			
<b>Banking</b>	<b>65.10%</b>	<b>66.41%</b>	<b>66.44%</b>
<b>Listed companies</b>	<b>4.74%</b>	<b>15.79%</b>	<b>18.98%</b>
<b>Insurance</b>	<b>29.97%</b>	<b>10.60%</b>	<b>8.53%</b>
<b>Telecommunications</b>	<b>0.19%</b>	<b>5.70%</b>	<b>5.50%</b>
<b>Saccos</b>	<b>0.00%</b>	<b>0.10%</b>	<b>0.10%</b>
<b>Pension funds</b>	<b>0.00%</b>	<b>0.40%</b>	<b>0.27%</b>
<b>Others</b>	<b>0.00%</b>	<b>1.00%</b>	<b>0.18%</b>

\*Source: UFAA

The information above clearly demonstrates that unclaimed assets are on the increase and the slow rate of claims provides an opportunity to utilize the resources to address societal needs. In Kenya, the assets are invested in treasure bills and this frees resources for the private sector to access them.

### **The Zambian Case**

In Zambia, the laws and regulations pertaining to unclaimed assets can be cited from the Banking and services act, 1994 which provides regulations on Banking and financial services (return of unclaimed funds). A bank or financial institution is required to submit to the registrar annual returns within sixty days at the end of each calendar year all funds held for ten years wherein no transaction has taken place nor a request made on the statement of account by the person whose name the account is held. This return will include such details as, the classification of funds and the personal details of the holder. However, there is limited information to set guidance or a clear indication on how such funds are handled.

### **Conclusion**

Zambia's debt situation is worsening due to limited and insufficient resource mobilization. With Covid 19 shuttering world economies, Zambia has not been spared with the 2020 national budget been revised downwards due to focused reduction in revenues as a result of poor performance of the economy which has directly affected revenue mobilization. This calls for innovative approaches for domestic resource mobilization. Unclaimed assets have been used in different jurisdictions as a tool for increasing nontax revenue and economies like Zambia can borrow lessons on how this has worked and domesticate these approaches to fit its domestic context.

In the African continent, Kenya has made progress and has a lot of experience that Zambia can learn from. The agency established has been operations for more than 5 years and this provides a good case study

### **Recommendations**

1. Establishing a taskforce to ascertain the quantum of unclaimed financial assets in the Zambian Economy
2. Development of policy and legal framework on unclaimed financial assets that will also include the utilization of such funds
3. Adoption, passage and implementation of the policies and laws
4. Benchmarking with jurisdictions that have established unclaimed assets regimes

Authors

#### **Vincent K Kimosop**

*Vincent K. Kimosop led the advocacy efforts that led to the passage of the law and Served as the first chair of the Unclaimed Financial Assets Authority (UFAA)*

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Our next topic will focus on the viability of using Gold to prop up national reserves and paying back public debt.