

## Important Announcement to members of the following pension schemes (“the Schemes”)

Ochil Birch Retirement Benefit Scheme  
Binnian Cedar Retirement Benefit Scheme  
Bodmin Stincher Retirement Benefit Scheme  
Sidlaw Larch Retirement Benefit Scheme  
Lawers Tay Retirement Benefit Scheme  
Quantock Yew Retirement Benefit Scheme

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### Background

Dalriada Trustees Limited (Dalriada) wrote to you previously regarding your membership of one of the above named Schemes and we now want to update members on the current position and the actions we have taken since our appointment.

On 13 June 2013 Dalriada was appointed by the Pensions Regulator as independent trustee with exclusive powers to the Schemes. All trustee powers and rights are now held by us.

Dalriada’s role as independent trustee is as follows:

- To administer the Schemes,
- To manage the Schemes’ assets and understand the nature of all assets held,
- To act in the best interests of all members and beneficiaries,
- To assist the Pensions Regulator with any enquiries in relation to the management of the Schemes.

Dalriada was appointed to the Schemes because of the Pension Regulator’s concerns that they had been used for ‘pension liberation’ or were simply just scams where members were at risk of losing all of their pension fund.

Pension liberation occurs where individuals are encouraged to transfer their existing pensions to new schemes in the expectation of getting money from their pension fund before the minimum retirement age of 55, either by way of a loan or some other form of cash inducement, often without being given the full facts about the risks and costs involved.

Schemes used for pension liberation put members at risk of having to pay large amounts of tax. Pension savings benefit from tax relief because they are meant to provide benefits in old age. If individuals try and take money out of their pensions early, HMRC will charge tax on any payment at a rate of up to 55%.

The Pensions Regulator has been running a campaign warning of the dangers of pension liberation. Because schemes used for pension liberation are often just scams this campaign is now called "pension scams" –

[www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx](http://www.thepensionsregulator.gov.uk/pension-liberation-fraud.aspx)

Generally, schemes that are scams and/or are used for pension liberation have high charges and often invest whatever money is left after these charges in risky and unusual investments. This can result in members losing their entire pension fund.

Members are not usually told about the risk of tax payments, or the charges involved made by those setting up the schemes, or about the way in which funds are being invested.

### **Court Action**

In our previous Announcement we advised that there was some uncertainty about whether or not the Schemes were occupational pension schemes. As the Pensions Regulator can only appoint trustees to occupational pension schemes this might have meant Dalriada's appointment was not valid. Dalriada made an application to Court (in respect of a set of different schemes but with similar documentation) to determine whether or not these schemes were occupational schemes. At the same time it sought to have the Court confirm Dalriada's appointment to the Schemes using the Court's own powers, which it did by way of an Order of the Court dated 19 June 2013.

The application to determine whether or not the schemes were occupational pension schemes was heard either side of the Court's summer break in July and October 2013. In his judgment handed down on 21 October 2013, Mr Justice Morgan determined that the schemes in question were occupational pension schemes.

This meant that the actions taken by the Pensions Regulator to appoint Dalriada were valid.

### **Administration**

Dalriada has received copies of the member files that were seized by City of London Police from the previous administrators. Based on those records we have now created proper administration records on our computer systems.

This is something any company would need to do to be able to run and manage a pension scheme properly and be able to work out members' benefits and provide the necessary benefit statements.

The fact that the previous administrators did not provide this electronic information or even appear to use a proper pension administration system suggests that the Schemes were never intended to be conventional pension schemes.

As well as taking control of the Schemes' bank accounts, Dalriada has also obtained copy bank statements for the Schemes. These have been reconciled against the member files and we have now created the necessary accounting and financial records that will enable us to prepare annual Reports and Accounts for the Schemes as we are required to do under pensions law.

Once the Scheme Reports and Accounts have been prepared and audited, they will be made available to members. Dalriada will contact members again at that time.

Again, Dalriada received no financial records from the previous administrators which it would expect to be readily available in the case of conventional pension schemes. The need to construct financial records from scratch has meant a significant amount of work for us.

Dalriada has set up a dedicated helpline number and e-mail address (shown below) should members wish to contact us with regard to their membership of the Schemes or to provide further information – see the **'What should I do if I have any further questions?'** section below.

## **Investments**

Dalriada has been working to gain control of the investments made by the previous trustees.

Dalriada has established that around £11.4m was transferred into the Schemes by way of individual member transfer payments. The majority of that money (£7.7m) was paid over to Advalorem Value Asset Fund Limited, a Gibraltar based investment company.

£1.1m was paid to Swan Holding PCC Limited (Swan Holding), a company based in the Isle of Man.

Of the remainder, about £350,000 was paid in fees to the previous trustees and their advisers, a further £280,000 was paid out in benefits.

The balance, £1.9m, was held in cash.

### *Advalorem Value Asset Fund Limited*

On 27 January 2014, following investigations, the Financial Services Commission (FSC) in Gibraltar obtained an order appointing Chantrey Vellacott (a firm of Chartered Accountants) as administrator of Advalorem.

The Schemes were the only investor in Advalorem and Dalriada and its legal advisers are in communication with Chantrey Vellacott to decide what action should be taken.

We know that the majority of the money (£6.6m) was used to buy land in Scotland, land that would appear to be worth significantly less than the amount paid for it.

### *Swan Holding PCC Limited*

The Schemes have bought shares in a 'sub-fund' of Swan Holding (called 'Cell A'). The purpose of this fund is to invest in UK commercial and residential properties and land.

Dalriada has been advised by Swan that investments can be both direct (buying property and land) and indirect (making loans, investing in property companies or entering into joint ventures or partnerships). Dalriada has also been advised that the anticipated return is 6-9% a year.

However, the shares are non redeemable and the life of the fund is at least ten years.

This means that this investment is 'highly illiquid', in other words it cannot be 'cashed in'. Dalriada is trying to find out when it will be able to get funds back into the Schemes, and, at that time, what the investment is likely to be worth, if anything.

Dalriada considers both these investments high risk and inappropriate, particularly given the fact that the majority of the Schemes' funds have been placed in just two investments.

There are concerns that the investments might have little or no value ultimately which will impact greatly on the value of members' benefits.

Dalriada will continue to work to determine how likely it is that we will be able to get some money back from the investments and, if necessary, what other options might be available to Dalriada (for example legal action).

### **Previous trustees**

The previous Trustees of the Schemes were Timothy Walker and Macalister Lindsay. They received £32,000 in fees. The previous administrators and advisers (Marley and Turnberry Wealth Management, both companies controlled by Martin Brown) received around £300,000 between them.

Generally, the Scheme's previous trustees and their administrators and advisers have been unhelpful and uncooperative, particularly with regard to the Scheme's investments which has made the job of Dalriada more difficult.

### **Current position**

Dalriada is continuing to get as much information as it can.

If the Schemes were used for pension liberation and/or were just scams, Dalriada will take whatever action it can to recover funds. To do this, it would be very helpful if members could:

- provide copies of any information you were provided with about the Schemes (for example a booklet or any other explanatory literature)
- say if you were provided with any information about how your pension fund would be invested
- confirm whether you were offered any form of cash payment (possibly by way of a loan) in return for joining one of the Schemes
- if you were offered a cash payment, confirm if the possible tax consequences were explained
- confirm if you received a payment and, if so, how much was it for, who arranged it and where was it paid from.

Dalriada would like to thank those members that have already been in contact and provided some information.

### *HMRC*

As mentioned earlier, schemes involved in pension liberation potentially expose members and, also, the Schemes themselves to tax charges. Dalriada has had some initial discussions with HMRC but it will be some time before the tax position can be established and we can determine what impact this might have.

### *Costs*

Usually, where a scheme is an occupational scheme, some, if not all, of the costs of running the scheme would be met by the employer. The employers linked to the Schemes do not appear to have ever actively traded nor do they appear to have any assets or means to contribute to the costs of running the Schemes. This means that the costs of the previous trustees and its

administrators and advisers, as well as Dalriada's costs and legal costs, have been, and will continue to be, met from Scheme funds. The fact that there was no genuine employer behind the Schemes is further evidence that they were not conventional occupational pension schemes and might simply be scams.

Whilst Dalriada will do all it can to minimise costs, because of the number of complex issues associated with these types of scheme, not least the work involved in setting up proper administration records and trying to identify and recover investments, costs will be significant and will impact on the value of the Schemes' funds.

*When will I be able to get information about my benefits or be able to draw my benefits or transfer my benefits out of the Schemes?*

Until Dalriada is clear as to the value of the Schemes' investments and what HMRC's position will be with regard to tax charges, it is impossible for us to say what the value of members' benefits is or will be, if anything. It may be some months and possibly years before we are able to do so.

Dalriada appreciates that this is frustrating and concerning for members. We will progress matters as quickly as we can (and would repeat our request above for members to provide what information they can to help us in our investigations).

Dalriada will update members whenever something significant occurs or when we have important information. In any event, we will, going forward, issue regular Announcements every couple of months or so.

### **What should I do if I have any further questions?**

Should you have any queries in relation to this announcement or your membership of the Schemes, please contact us.

You can contact us as follows:

By Telephone: 028 9085 0934

By Post: Dalriada Trustees Limited  
22 Great Victoria Street  
Belfast  
BT2 7BA

Via e-mail: [msadmin@dalriadatrustees.co.uk](mailto:msadmin@dalriadatrustees.co.uk)

**Issued by Dalriada Trustees Limited**

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