

## Important Announcement to members of the following pension scheme

### TWM Pension Trust (“the Scheme”)

---

#### **Background**

Dalriada Trustees Limited (Dalriada) wrote to you previously regarding your membership of the Scheme 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 Scheme. All trustee powers and rights are now held by us.

Dalriada’s role as independent trustee is as follows:

- To administer the Scheme,
- To manage the Scheme’s 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 Scheme.

Dalriada was appointed to the Scheme because of the Pension Regulator’s concerns that it had been used for ‘pension liberation’ or was simply just a scam 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 Scheme was an occupational pension scheme. 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 Scheme 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 Scheme was never intended to be a conventional pension scheme.

As well as taking control of the Scheme's bank account, Dalriada has also obtained copy bank statements for the Scheme. 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 Report and Accounts for the Scheme as we are required to do under pensions law.

Once the Scheme Report and Accounts has been prepared and audited, it 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 a conventional pension scheme. 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 Scheme 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 £3.3m was transferred into the Scheme by way of individual member transfer payments and the vast majority of that money (£2.7m) was paid over to Castle Trust, a company registered in Gibraltar.

£125,000 was paid to NewGalaxy Services Limited.

Of the remainder, about £71,000 was paid in fees and a further £14,000 was paid out in benefits.

The balance, £425,000, was held in cash.

#### *Castle Trust / Elysian Fuels*

Dalriada understands that Castle Trust acted as a broker and the Scheme's investment was in shares in Elysian Fuels No. 27 plc, a company registered in England and Wales.

Dalriada has been advised that Elysian Fuels was originally set up to construct and run a bio-ethanol plant in the north of England but that the current approach is to re-commission an existing plant in America.

Dalriada is trying to get more information on this investment but, at this stage, it appears that it is 'highly illiquid', in other words it cannot be 'cashed in', and Dalriada is trying to understand when it will be able to get funds back into the Scheme, and, at that time, what the Scheme's investment is likely to be worth, if anything.

Dalriada considers the investment in Elysian Fuels high risk and inappropriate, particularly given the fact that the vast majority of the Scheme's funds have been placed in this one investment. We are concerned that the investment will have little or no value ultimately which will impact greatly on the value of members' benefits.

#### *NewGalaxy Services Limited*

Dalriada was unable to obtain any information with regard to this investment initially and the previous trustees did not provide details.

However, Dalriada has in the last few weeks established that the Scheme bought 125,000 preference shares in NewGalaxy Services Limited, a company registered in England and Wales, and has now made contact with the company and we await further information.

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

#### **Previous trustees**

The previous Trustees of the Scheme were Martin Brown and Margaret Brown.

The previous administrators (Marley, a company controlled by Martin Brown) received over £17,000.

A further firm of administrators (Pensions Administration Team) received £54,000 in fees.

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 Scheme was used for pension liberation and/or was just a scam, 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 Scheme (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 the Scheme
- 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 Scheme itself 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 employer linked to the Scheme does not appear to have ever actively traded nor does it appear to have any assets or means to contribute to the costs of running the Scheme. 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 Scheme is further evidence that it was not a conventional occupational pension scheme and might simply be a scam.

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 Scheme's 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 Scheme?*

Until Dalriada is clear as to the value of the Scheme's 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 Scheme, 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: [twmadmin@dalriadatrustees.co.uk](mailto:twmadmin@dalriadatrustees.co.uk)

**Issued by Dalriada Trustees Limited**

**August 2014**