

## **Capri Holdings Retirement Benefits Scheme ("the Scheme")**

### **Annual Governance Statement by the Chair of the Trustee for the period 9 April 2018 to 9 June 2018**

#### **Introduction and background**

This statement has been prepared in accordance with regulation 23 the Occupational Pension Scheme (Scheme Administration) Regulations 1996, as amended (the "Administration Regulations"), and related Pensions Regulator guidance.

It relates to the Capri Holdings Retirement Benefits Scheme (the "Scheme").

Dalriada Trustees Limited ("Dalriada") was appointed as trustee to the Scheme by the Pensions Regulator amid concerns as to the way the Scheme was being managed and that it appeared that there were no trustees who were willing or able to act. This has presented Dalriada with a number of challenges around governance. Nevertheless, this statement is a legal requirement and, where Dalriada cannot meet certain governance obligations, I have explained why that it is the case.

Dalriada was appointed as Independent Trustee of the Scheme by Order of The Pensions Regulator on 9 April 2018. Whilst the previous trustee was not removed by The Pensions Regulator, Dalriada was appointed with exclusive powers so Dalriada is, effectively, the sole trustee of the Scheme.

Dalriada understands that funds transferred into the Scheme (and other connected schemes) were invested in a company called Disruptive Tech Limited (DTL), a Gibraltar based investment holding company. Some members of either the Scheme, or the other connected schemes, had failed in their attempts to contact the previous trustees and administrators and had therefore contacted DTL directly. DTL similarly to make contact with the previous trustees. DTL then reported the matter to The Pensions Regulator. Again, the previous trustees did not respond to correspondence from The Pensions Regulator who determined there was no trustee in place and exercised its power to appoint a professional trustee (Dalriada) to act.

At this stage, Dalriada has assumed control of the investment with DTL and is in communication with them as to the terms of the investment and the likely value, both in the longer term and whether there are any immediate redemption options.

Dalriada has, at this stage, only been able to obtain limited, if any, records associated with the Scheme so has not been able to determine a definitive membership database or create the necessary financial records.

Dalriada is continuing its investigations and, once it has determined who the Scheme members are, will look to communicate with them accordingly.

#### **Default arrangement**

A number of requirements of the Administration Regulations, which are referred to in this statement, relate only to a "default arrangement" as defined in the Administration Regulations. The Scheme does not have a default fund for ongoing accrual. It is not a qualifying scheme within the meaning given by section 99 of the Pensions Act 2008. It is not used to meet any auto-enrolment obligations and no contributions are being paid into the Scheme.

As far as Dalriada can establish, the Scheme did not offer a Default Lifestyle Strategy.

Further, the Scheme did not appear to offer members any choice as to how their funds were invested, all funds appearing to have been invested in DTL.

Once Dalriada has established the terms of the investment with DTL and whether there is any immediate option to liquidate funds, it will give further consideration to an ongoing investment strategy. However, Dalriada is likely to adopt a low risk investment strategy with regard to any assets it holds or may hold in the future, outside of DTL.

As far as Dalriada can establish, the previous trustee made investment decisions without seeking appropriate investment advice.

As such, in Dalriada's view, there has never been an appropriate default investment arrangement. There is no life-styling option available.

Ultimately, it is Dalriada's intention to wind up the Scheme as soon as it is able, giving members the opportunity to transfer any funds to a more suitable arrangement of their choice.

## **Statement of Investment Principles**

Ordinarily, trustees should prepare a statement of investment principles ("SIP") governing decisions about investments. This is a requirement for schemes with membership of 100 members or more.

No Statement of Investment Principles exists for the Scheme as, as far as Dalriada can establish, it has fewer than 100 members and as such is not a requirement.

## **Review of default strategy and default arrangements**

As noted above, as there is no default arrangement or default strategy in place for the Scheme at the current time then there has been no review of the default arrangement or default strategy in the period in question and no previous review for which a date can be given.

## **Core Financial Transactions**

Trustees have a specific duty to ensure that core financial transactions relating to DC schemes are processed promptly and accurately. These include the following:

- investing contributions in the Scheme
- transferring assets related to members into or out of the Scheme
- transferring the assets between different investments within the Scheme
- making payments from the Scheme to or on behalf of the members.

The Scheme does not currently accept contributions or transfers in and is unable to pay any level of benefit, including transfers values, to members at the present time (to the extent that Dalriada can even identify who the members are).

This is due to a number of factors, not least uncertainty, to date, as to the value of the Scheme's investments.

The Financial Transactions the Scheme would make are, in the main, in relation to costs. However, currently, there are no liquid assets to enable costs (or, indeed, any payments) to be made.

Given its inability to carry out routine administrative actions, unsurprisingly, over the reporting period, there have been no material administration service issues which need to be reported here by Dalriada.

Notwithstanding this, Dalriada, as a professional Independent Trustee, has processes and controls in place that are suitably designed to ensure any service objectives can be achieved once the Scheme is in a position to operate in the manner of a normal scheme. Dalriada's administration processes are independently audited and accredited under AAF 01/06 and AAF 02/07.

Once Dalriada is in a position to process member benefit requests these will be managed and monitored in line with Dalriada's standard SLA levels and targets and formally reported on, on a quarterly basis.

## **Charges and Transaction Costs**

The new governance rules require the Trustee to make an assessment of investment management charges and transactions costs borne by the Scheme members and the extent to which those charges and costs represent good value for money for members.

The Trustees have calculated the charges and, so far as they were able to do so, the transaction costs, borne by Scheme members for the period.

In this context, "charges" means (subject to some specific exceptions, such as charges relating to pension sharing orders) all administration charges other than transaction costs.

"Transaction costs" are costs incurred as a result of the buying, selling, lending or borrowing of investments.

Dalriada has deviated from the approach set out in the statutory guidance for the reasons set out below.

Since its appointment, there have been no transactions as Dalriada has not accepted any payments into the Scheme, either by way of contribution or transfers in so there have been no transaction costs.

Under the terms of its appointment, the fees of Dalriada and its advisers would be met from Scheme funds.

Due to the mismanagement of the Scheme by its previous trustee and the subsequent actions taken by Dalriada since appointment, it is inevitable that the Scheme has incurred, and will continue to incur, significantly higher ongoing costs than would be the case for a similarly sized but conventional scheme.

However, whilst Dalriada has incurred costs in managing the Scheme, it has not been possible to meet these costs due to the lack of available funds. It is not anticipated at this time that there will be any recoveries made in the short term to enable Dalriada's outstanding costs to be met. However, as and when this is the case, Dalriada will confirm to members (to the extent Scheme members can be identified) the amount of costs incurred and, if cost effective to do so, have a full set of Report and Accounts prepared and audited.

## **"Good value" assessment of charges and transactions**

Generally, trustees should assess the extent to which the charges described above represent "good value" for members during the period, by considering the level of member borne charges against the benefits attributable to such charges.

Whether something represents "good value" is not capable of being precisely defined, but for these purposes, trustees should consider that charges may be viewed as representing "good value" for members where an optimum combination of cost and quality is achieved for the membership as a whole, relative to other options available in the market.

The characteristics of the Scheme are unusual and there are no readily available comparators to determine whether the costs incurred represent good value.

However, the actions undertaken by Dalriada, beyond those considered necessary for the appropriate management of the Scheme (including attempts to trace all appropriate Scheme records), are centered on recovery of funds.

Dalriada was appointed following a tender exercise by The Pensions Regulator (TPR) and Dalriada is subject to ongoing oversight by TPR.

Dalriada's costs (both for ongoing management and with regard to action around recovery of funds) are calculated using a blended charging rate that sits well below its standard market rates. Its legal advisers operate similarly, where legal advice is sought.

As commented above, Dalriada, as a professional Independent Trustee, has processes and controls in place that are suitably designed to ensure any service objectives can be achieved once the Scheme is in a position to operate in the manner of a normal scheme. Dalriada's administration processes are independently audited and accredited under AAF 01/06 and AAF 02/07.

Once Dalriada is in a position to process member benefit requests these will be managed and monitored in line with Dalriada's standard SLA levels and targets and formally reported on, on a quarterly basis.

In relation to the cumulative effect over time of the application of charges and costs on the value of a member's accrued rights to money purchase benefits, due to the nature of Dalriada's appointment, both Dalriada's and its advisers' fees are met using Scheme funds. Given that we are not in a position to determine the value of the Scheme's assets it is not possible to say what the cumulative effect of these costs is, generally, on members' accrued rights.

As soon as Dalriada is in a position to identify each individual's asset allocation, Dalriada will be able to determine the impact of costs on the value of members' benefits.

## **Trustee knowledge and understanding**

The Trustees have considered the latest guidance in relation to Chairman's Statements from The Pensions Regulator and have ensured that its practices reflect the requirements set out. I have set out below how the Trustees ensure they currently meet the knowledge and understanding requirements of trustees.

Dalriada is an independent professional trustee, established in 2003, which has been appointed by The Pensions Regulator (TPR) under section 7 of the Pensions Act 1995 to a number of schemes as a result of TPR having concerns about the nature and operation of those schemes and the extent to which the then current trustees understood their statutory and fiduciary duties and responsibilities. Dalriada refers to such schemes as "Regulatory Appointments". The Scheme is a Regulatory Appointment. As commented above, Dalriada is, effectively, sole trustee.

Dalriada has established a specialist team drawn from various relevant disciplines within Dalriada to manage the governance of these Regulatory Appointments which we have called the Irregular Schemes Team.

A dedicated committee (the Irregular Schemes Committee – 'the Committee') has been established by the Board of Directors of Dalriada to oversee the activities of the Irregular Schemes Team in its governance of this scheme and other Regulatory Appointments. Care has been taken to ensure that the membership of the Committee is such that there is sufficient knowledge and understanding within the Committee to meet the requirements set out in sections 247 and 248 of the Pensions Act 2004 and The Pensions Regulator's Code of Practice 7 on Trustee Knowledge and Understanding.

I have set out below the membership of the Committee, along with a short note on their skill set and experience. In addition, it is worth noting that three members of the Committee are directors of Dalriada Trustees Limited. Dalriada operates a team based approach which gives the Regulatory Appointments Team access to over 120 pensions and support personnel with a broad skill set suited to identifying and implementing the variety of tasks required to successfully manage the Scheme, including pension administration experts, an in house legal team, fund accountants and investment experts. Whilst the core Irregular Schemes Team deals with the majority of matters arising on the Scheme on a day to day basis, in conjunction with its appointed advisers, it can access the specialist expertise of the wider Dalriada team as and when required.

As far as we are aware, no other professional independent trustee firm has established and developed a specialist team in this difficult and challenging area of trusteeship. The relevant experience developed by the Irregular Schemes Team on such cases is unmatched and unrivalled.

## ***The Committee***

### ***Sean Browes***

Sean has been working in the pensions industry since he graduated in 1988. He worked for two major benefit consultancies in both administration management and consultancy roles, before joining Dalriada in 2003. Sean has a broad range of skills and experience suited to all areas of pension scheme management.

Sean leads the Irregular Schemes Team, dealing with Dalriada's appointments by The Pensions Regulator (TPR) to schemes suspected of being involved in pension liberation or thought to be scams. He now has a wealth of experience and knowledge with regard to the unique characteristics associated with the administration and management of these types of scheme and the challenges they present.

### ***Neil Copeland***

Neil is a co-founder and director of Dalriada Trustees Limited. He acts as a trustee representative on some of our most complex and challenging cases, including our regulatory appointments. Neil specialises in schemes with technically challenging governance and covenant issues, as well as having over 25 years of experience in relation to defined benefit, hybrid, defined contribution, multi-employer and sectionalised arrangements.

Neil is the Dalriada Board representative for the Irregular Schemes Team and spends a significant proportion of his time working on Regulatory Appointments. Like Sean, Neil has developed considerable experience of the complex and non-standard issues faced by the Dalriada team in managing the Regulatory Appointments. This has included acting as a witness in high profile litigation in relation to Regulatory Appointments in support of TPR and representing Dalriada in oral hearings before the Determinations Panel where Dalriada's appointment by TPR has been challenged by the incumbent trustees or other directly affected parties.

### ***Tom Lukic***

Tom is also a director of Dalriada Trustees Limited and leads the Dalriada business across the Midlands. He has broad pensions experience with particular expertise in employer covenant and corporate transactions. He has worked with a range of trustee boards managing scheme assets from c£5 million to more than £1 billion. Similarly, he is experienced in working with a broad spectrum of sponsoring employers from small, owner managed businesses through to much larger and complex groups being either privately owned or fully listed.

Tom's experience, both as an adviser and as a trustee representative, provides particular insight into corporate structures and insolvencies. The Scheme's investments include shares and/or bonds in, or issued by, corporate entities where understanding the accounting and financial structures of these entities is essential.

### ***Brian Spence***

Brian is a co-founder and director of Dalriada Trustees Limited. He is now involved in the provision of a wide range of advice to pension scheme sponsors and trustees. Brian is well-known in the pensions industry for taking a strategic view in dealing with pension scheme matters and uses his experience to deliver practical solutions which satisfy the needs of the trustees, the employers and other stakeholders. Brian is recognised by TPR and the pensions industry as an expert in dealing with contentious and/or complex issues. He is a lead contact and "key person" for a number of high profile trustee appointments.

In addition, Brian has practical experience of working as a trustee in all three major legal jurisdictions of the UK and as a trustee and advisor in Ireland. Brian has held a UK Scheme Actuary Practising Certificate since inception of the role in 1997.

Brian has an in depth knowledge of legal processes, particularly around testing points of legal principle related to the operation of pension schemes, often as a result of deficiencies in scheme documentation (a common issue with Regulatory Appointments) and, also, litigation – where it is cost effective to do so, Dalriada will look to take legal action against the perpetrators of a scam with the aim to recover misappropriated assets.

### ***Knowledge of the trust deed and rules and all documents setting out the trustee's current policies***

The Scheme has a dedicated client manager. At the point of becoming an Independent Trustee to the Scheme, a prescribed take on process was followed. This included an assimilation and review of all the relevant scheme documentation, such as there was documentation available. The Committee is made aware of any issues or risks in relation to the Scheme as and when they arise and appropriate action agreed in relation to the issue or risk identified. In addition to the knowledge held by the client manager and Lead Trustee Representative, the trustees obtain legal advice where necessary.

There have been no new trustees introduced in this reporting period. However, it is recognised that an appropriate induction process should be in place to support the addition of new trustees. This is under review and will be put in place within the next reporting period.

### ***A working knowledge of the current Statement of Investment Principles (SIP)***

As is set out earlier, the Scheme does not have a SIP at this time due to particular circumstances of the Scheme.

### ***Sufficient knowledge and understanding of the law relating to pensions and trusts and understanding of the principles relating to the funding and investment of occupational schemes***

Those Dalriada staff working on the Scheme, including the lead trustee representative, are obliged to self evaluate their learning and development requirements on an annual basis as part of Dalriada's internal appraisal process. The process identifies how staff can develop their knowledge and understanding, as well as where they can share their expertise in order to best support the Scheme. Dalriada staff are also required to comply with their respective training requirements in order to maintain a required level of continuing professional education (CPE) and to provide evidence of courses, seminars and other types of professional development to satisfy their respective professional bodies' CPE requirements.

Every trustee representative is required to undertake a minimum number of hours training in a year. This is recorded centrally by Dalriada's HR Team and, where appropriate, forms part of staff personal development plans. This training can include internal and external courses and attendance at industry events, as well as a degree of self learning by way of subscriptions to professional publications and electronic information channels.

Further, every trustee representative is required to complete The Pensions Regulator's Trustee Toolkit and subscribes to the updates issued by The Pensions Regulator.

Trustee representatives belong to Dalriada's knowledge management network which keeps them up to date with industry thinking. They also have access to a team of in house pensions experts who inform the team about changes to pensions legislation and practices.

Dalriada staff have access to Pendragon Perspective and Aries - both industry leading tools, giving access to pension legislation.

Dalriada has its own in house legal specialists to provide support and guidance to trustees around legislation and interpretation of scheme documentation. This is further aided by advice from external legal advisers, which is obtained when the trustees feel the reinforcement is necessary to support their own understanding.

***Combined knowledge and understanding, together with available advice enables the trustees to properly exercise their function***

Dalriada has informally assessed the skill set and experience of each member of the Committee and the client team. It has taken into account the development activities already mentioned, along with the internal resources made available to staff, supplemented, where required, by professional external advice.

Given that the Committee has been recently established, there is a need to more formally assess the skills of its members. This will be done annually using a skills matrix developed for this purpose. Any areas for development flagged during this process will be addressed as part of the individual's personal development plan and reviewed throughout the year.

An evaluation of the effectiveness of the Committee as a whole will also be carried out annually.

I consider that the combined knowledge and understanding of the Committee and the client team enables them to exercise properly their function as trustee of the Scheme. In particular:

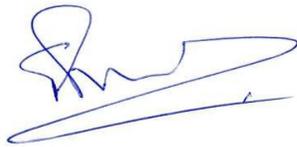
- Members of the Committee have the relevant financial knowledge and experience to enable the trustee to comply with its duties in relation to investment of the Scheme's assets. Tom Lukic's experience (see above) in particular is advantageous in this area.
- There is a vast range of pensions experience and knowledge within the Committee and the client team. This is appropriate to deal with the governance of the Scheme in line with the trust deed and rules, along with other scheme documentation. There is also a great deal of experience relevant to dealing with issues which might be thrown up by the Scheme which require the amendment of scheme documentation.
- Sean Browes, Neil Copeland and Brian Spence have a great deal of knowledge and experience in relation to schemes of complex nature, such as this Scheme, where investments made by previous trustees are deemed to be highly inappropriate, their administration has been poor and / or the trustees have not had the sufficient knowledge and understanding to be trustees of an occupational pension scheme.
- Sean Browes and Neil Copeland have many years of experience in the administration of pension schemes, allowing a keen oversight of the administration of the Scheme.

**Member Representation**

Dalriada is aware that members of the Scheme are potential victims of a scam. As such, we will look to keep members (to the extent that we have been able to determine who the members are) informed and members will be able to contact the client manager directly by way of e-mail or direct landline or mobile in the event of them having any queries or concerns with regard to their membership of the Scheme.

There are processes in place to publish relevant information on a website.

Signed for and on behalf of Dalriada Trustees Limited (the trustee)



Chairman .....

Date 9 January 2019