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**Incartus Investments Pension Scheme 1**  
**Incartus Investments Pension Scheme 2**  
**Incartus Investments Pension Scheme 3**  
**Incartus Investments Pension Scheme 4**  
**Incartus Investments Pension Scheme 5**  
**Incartus Investments Pension Scheme 6**  
**Incartus Investments Pension Scheme 7**  
**Incartus Investments Master Pension Scheme**  
**("the Schemes")**

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**Dalriada.** A better way

## Background

Dalriada Trustees Limited ("Dalriada") wrote to you previously regarding your membership of one of the Schemes. This is an update on the current position.

As you will recall, the Schemes were used as vehicles to raise funding for Incartus Ltd ("Incartus"). The Schemes' sole investments were in the form of a series of loans to Incartus.

Incartus subsequently used the funds to invest in a portfolio of UK based property and a number of oil and gas projects in the United States. The use of unsecured loans as the sole investment for an occupational pension scheme is in breach of the regulations which govern the way pension schemes are managed.

Incartus owes the Schemes in excess of £16.5m. Failure by Incartus to repay the remainder of the loans owed would result in a substantial investment loss to the Schemes and would impact on member benefits.

As outlined in our 4<sup>th</sup> Announcement, Incartus stated that they would provide a detailed plan for repaying the outstanding monies to the Schemes. In February 2022 Dalriada received a proposal in which Incartus indicated that they would be in a position to make repayments from the end of April 2022.

Despite repeated requests, Incartus did not make any repayments to the Schemes. On 29 June 2022 Dalriada therefore took the decision to issue notice to Incartus seeking repayment of all the loans by 30 June 2023.

Following repeated attempts to engage with Incartus regarding their initial repayment proposal, on 23 March 2023 Dalriada issued a letter reiterating the intention to enforce repayment of the loans at the end of the notice period. In response, Incartus made contact through their lawyer with a further repayment proposal due to commence at the end of August 2023.

Following receipt of the revised proposal Dalriada has had to consider the following options:

# Member Announcement

1. Do not accept Incartus' repayment proposal and immediately seek to enforce repayment of full amount of the outstanding loans together with interest at 8% pa

Given the amount outstanding it is unlikely that Incartus will be able to meet its obligations to the Schemes. In this event, Dalriada expects to be Incartus's largest creditor and will take steps to appoint an Insolvency Practitioner to recover what further funds it can for the Schemes.

In this scenario it is unlikely that Dalriada would be able to recover the full amount due to the Schemes as any recovery will depend on what assets Incartus has as well as any action an Insolvency Practitioner might take to recover further assets. Recovering less by this means would have a significant impact on member benefits. There will also be costs involved in taking this action as Dalriada would need to involve its lawyers, and the Insolvency Practitioner would also be likely to draw costs from whatever assets Incartus has.

As outlined in our 4<sup>th</sup> Announcement, in this scenario Dalriada will submit a claim to the Fraud Compensation Fund ("the FCF") subject to the Schemes meeting the full FCF eligibility requirements. This would be to claim whatever shortfall there is after recoveries are made via any insolvency.

It is not certain that the FCF will find that an offence of dishonesty occurred, even where members might consider, on the face of it, that they have been scammed. Dalriada cannot provide any assurances that a claim will be successful, but we will put forward as comprehensive and compelling a case as we can based on the evidence we have. For this reason, Dalriada has to consider the best way of maximising recoveries from Incartus on behalf of the members, as well as considering any possible FCF claim.

2. Delay enforcement of the loans until such a time that Incartus repays the amount due to the Schemes in full or breaches the terms of the repayment proposal.

Incartus has proposed to make an initial payment of £1.2m by the end of August 2023 and then further repayments of £1m to the Schemes on a monthly basis beginning at the end of September 2023 until the amount due to the Scheme including interest at the promised 8% pa is repaid.

The initial £1.2m payment will be funded by the sale of a significant property which remains in the Incartus property portfolio. Incartus has advised that it cannot directly fund the monthly payments of £1m which will commence in September 2023. Incartus has advised that these payments will be funded by another company Abrus Resources LLC ("Abrus").

Dalriada has requested information which would allow us to understand how Abrus proposes to fund the repayments and also asked why the repayments cannot be made more quickly. Incartus has not provided a satisfactory response on either of these points and has limited itself to stating the following:

"Our client (Incartus) is in a joint venture agreement with Abrus Resources LLC. Abrus Resources LLC is a limited liability company in the state of Texas in the United States of America. It is a multi-sector energy resources company, which acquires, develops, and operates energy production sites in the oil and natural gas industry in the USA. Mr Troy Teague is Managing Director and shareholder of Abrus Resources LLC which deals with the operations in the United States. Mr Teague is also a Director of Incartus Ltd."

Dalriada has considered the above options, taking into account both the estimated return to the Schemes should Incartus become insolvent and the uncertainty surrounding an FCF claim. It should also be noted that whilst the FCF provides a very valuable lifeline for schemes that have seen significant losses attributable to acts of dishonesty it is not able to compensate schemes' losses arising from promised investment returns not being realised. This means that the FCF cannot compensate the Schemes for the promised 8% pa investment return that has not been received. The estimated interest due to the Schemes, which will continue to increase until all funds have been repaid and which Incartus is proposing to repay, was £7,869,200m at 31 December 2021.

## Member Announcement

Also, the FCF is a fund of “last resort”, which means a compensation application can only be made when no further recoveries are likely, or the burden on costs would outweigh the potential return. It is likely that, unless or until Incartus fails to meet the terms of its proposed repayments, the FCF would not consider that the last resort test has been met.

Taking the above into account we believe that it would be in the members’ best interests to allow Incartus the opportunity to comply with the terms of their proposal. This is on the basis that we will be clear in a few months whether Incartus is serious about honouring its offer. If it is, the Schemes stand to benefit more substantially than if Dalriada enforces its existing claim and involves an Insolvency Practitioner.

If Incartus fails to meet the repayment terms which it has put forward then Dalriada can still take steps to enforce repayment of the loans now that the period for making repayment has expired. It has informed Incartus that it will do this so there is a clear need for Incartus to comply with the terms it has offered itself, and Dalriada will not agree to delay without good reason.

This means Dalriada will effectively have both of the options above available with the potential of a better outcome for members than relying on the FCF alone, if Incartus meets the repayments set out in its proposal. If it does not make the proposed repayments, Dalriada will still be able to enforce existing rights,.

Depending on the outcome of the proposed repayment process and once it is complete, whether because Incartus has met its obligations under the proposal or has defaulted on them at some point, Dalriada will consider whether there is any scope for an FCF claim to be submitted on behalf of the Schemes. However, the claim will clearly be smaller if Incartus does make more substantial repayments and, if it fully meets its obligations under the repayment proposals, the FCF may conclude that, in those circumstances, the Schemes have not suffered losses attributable to dishonesty.

Dalriada will keep members informed by way of a further Announcement once it becomes clear whether Incartus is starting to make the repayments.



# Member Announcement

## 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 9041 2002

By Post: Dalriada Trustees Limited  
Linen Loft  
27-37 Adelaide Street  
Belfast  
BT2 8FE

By Email: [incartusadmin@dalriadatrustees.co.uk](mailto:incartusadmin@dalriadatrustees.co.uk)

## Other Useful contact details

If you have a complaint or dispute concerning your workplace or personal pension arrangements you should contact:

The Pensions Ombudsman Telephone: 0800 917 4487

Website: [www.pensions-ombudsman.org.uk](http://www.pensions-ombudsman.org.uk)

If you have general requests for information or guidance concerning your pension arrangements contact the Money and Pension Service (MaPS).

Previously pensions guidance has been provided across the three consumer facing brands of MaPS: Pension Wise (PW), The Pensions Advisory Service (TPAS) and the Money Advice Service (MAS).

MaPS has now launched **MoneyHelper** where all retirement and pensions guidance has been brought together under one brand and one website: [moneyhelper.org.uk](http://moneyhelper.org.uk).

Consumers can request an appointment by following the links, emailing [virtual.appointments@maps.org.uk](mailto:virtual.appointments@maps.org.uk) or by calling our the pensions helpline on 0800 011 3797.

These appointments are free and impartial.

The email address to the pensions guidance team for general pensions queries is [pensions.enquiries@moneyhelper.org.uk](mailto:pensions.enquiries@moneyhelper.org.uk)

**Issued by Dalriada Trustees Limited**

**July 2023**