

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

### Dominator 2012 Pension Scheme Commando 2012 Pension Scheme Donington MC Pension Scheme

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#### **Background**

We are writing to you as we believe that you may have joined one of the Schemes and transferred-in pension benefits from a previous arrangement.

The previous trustee (Mr Stuart Garner) had previously been in communication with The Pensions Regulator and, latterly, with Dalriada Trustees Limited (“Dalriada”) with regard to the management of the Schemes. Ultimately, The Pensions Regulator made an application to The Determinations Panel resulting in Dalriada being appointed as independent trustee with exclusive powers to the Schemes, effective from 21 May 2019. All trustee powers and rights are now held exclusively by Dalriada. Mr Garner supported The Pensions Regulator’s application to have an independent trustee appointed and has welcomed the appointment of Dalriada.

For information, The Pensions Regulator is a statutory body which is responsible for the regulation of work-based pension schemes in the UK. Its aims include protecting the benefits of scheme members together with promoting good administration and understanding of occupational pension arrangements.

The Determinations Panel is a separate committee from the Pensions Regulator, in that it has a separately appointed membership and legal support.

#### **Why have we been appointed as independent trustee to the Schemes?**

The Determinations Panel has the power to appoint a trustee under section 7 of the Pensions Act 1995 where it is reasonable to do so:

- a) to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of schemes,
- b) to secure that the number of trustees is sufficient for the proper administration of schemes,
- c) to secure the proper use or application of the assets of schemes, or
- d) otherwise to protect the interests of the generality of the members of schemes.

Dalriada is a company that operates solely to provide trusteeship services to UK occupational pension schemes. We currently act as independent trustee to a large number of schemes where we have been appointed by the Determinations Panel following applications by The Pensions Regulator

requesting that the powers under section 7 be used. Dalriada has considerable knowledge and experience in all aspects of pension scheme management.

Our role as independent trustee is as follows:

- To ensure the Schemes are managed appropriately.
- To manage the assets of the Schemes 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.

The Schemes were set up as vehicles to provide funding for Norton Motorcycle Holdings Ltd ("Norton"). Norton is a UK based motorcycle manufacturing company located in Castle Donington.

The funding was provided by way of the Schemes' assets being invested solely in preference shares in Norton.

Preference shares are a form of debt where shareholders are entitled to a fixed return on their investment and the shares themselves may be redeemed at par value (i.e. the price that was paid for them). The Schemes' shareholdings in Norton are due a 5% yearly return. However, this is at the discretion of Norton, as is the ability to redeem (cash in if you like) the shares. As preference shareholders, we have no voting rights (so are not directly able to influence the actions of the Norton business).

The fact that the Schemes' assets are invested in this way is not permitted under the Regulations that govern the way pensions schemes such as the Norton schemes should be run.

This was a significant concern for The Pensions Regulator.

Stuart Garner is CEO of Norton and main shareholder. Mr Garner also acted as trustee to the Schemes. This created a conflict of interest. There were also other governance failings, including the fact that annual Reports and Accounts had not been prepared for each of the schemes.

However, Dalriada understands that Mr Garner was mis-sold the idea of using pension schemes in this way. He recognised his shortcomings and that he was not a professional trustee and he responded to the Pensions Regulator's requests for information and, ultimately, supported the appointment of a professional, independent trustee.

### **What action have we taken so far?**

Dalriada's aim is now to regularise the position with the Schemes' investments. Ultimately, Dalriada does not intend to run the Schemes on as ongoing schemes so, if and when all funds have been recovered, Dalriada will look to wind up the Schemes and offer members the opportunity to move their funds to more appropriate arrangements.

However, to get to that point, Dalriada is dependent on the ability or otherwise of Norton to redeem the Schemes' preference shareholding in Norton and, since its appointment, Dalriada has been working to gain a better understanding of the Norton business and its ability to make the necessary payments back to the Schemes.

Norton has indicated to Dalriada that it intends to fully redeem the preference shares including the interest due. Furthermore, it will meet the costs associated with the running of the Schemes, including those associated with Dalriada's appointment.

However, to achieve this, Norton needs to undergo a series of funding projects both to be able to repay the Schemes and, also, to grow the business.

The first of these projects are bank lending and a share issue.

We should emphasise that there is no guarantee that these projects will be successful. However, Norton is keeping Dalriada informed of its plans, providing regular financial updates and access to its advisers and auditors.

At this stage, Dalriada is of the view that supporting Norton in its fundraising represents the best chance of the Schemes recovering their investments in full and is in the best interests of the members.

Norton have made some redemptions to date, reducing the Schemes' liabilities by about £2m. However, there remains an amount due to be recovered by the Schemes in excess of £14m and, in our view, any attempt to extract funds now from the Norton business or, indeed Mr Garner personally, are not going to generate anything close to that figure.

To protect the position of the Schemes and its members as best as it can Dalriada has agreed with Mr Garner the following:

- 50% of the initial fund raise will be used to redeem some of the existing preference shareholdings and those monies paid into the Schemes.

We expect this to happen before Christmas this year.

- On successful completion of subsequent fundraising by 31 December 2020, Norton will fully redeem any remaining preference shares to include the interest at 5% calculated to the date of redemption.

We are hopeful that this will be by the end of 2020.

- In addition, a further 2.5% of the final redemption value will be paid as an additional dividend, to be paid ahead of any dividend to other shareholders. This means members' benefits will be further increased beyond the promised level of return.

This ensures members receive some benefit from a successful fundraise.

- A further amount to cover any scheme management costs already accrued and to cover the costs of winding up the Schemes.

Again, this would represent a material benefit to members as funds would not be impacted at all by costs.

- Mr Garner is prepared to offer scheme members some security by giving the Schemes a charge over his personal shareholding in Norton in the event that fundraising attempts are not successful.

This means Dalriada will be able to work with Mr Garner to find a way to use his own assets to put some money back into the Schemes if the fund raising is not successful. It protects the Schemes to a degree in a worst case scenario but there would be no guarantee that funds would be recovered in full.

These are all important and valuable concessions. To confirm, at this time, we consider a strong and successful trading Norton business, on completion of successful fund raising campaigns, represents members' best chance of maximising their benefits from the Schemes.

### **What does this mean for you?**

As commented above, we anticipate some monies being paid into the Schemes before Christmas if the initial fund raise is successful.

At this time, we are not able to make any benefit payments from the Schemes as the Schemes hold no liquid funds. Once the Schemes are in funds, we will revisit the position on benefit payments. However, until such time as either the monies are repaid in full or Dalriada has some certainty that the monies **will be** repaid in full at some point in the future, it cannot consider making benefit payments (even if it had funds to do so) as making payments before all monies were recovered could be to the detriment of the remaining members if the funds were not fully repaid. Dalriada must consider the interests of all members collectively.

We are aware of a number of outstanding requests for benefit payments and appreciate the frustration members are experiencing in this regard. We have spoken to a significant number of members already. However, if you do wish to discuss your own situation with regard to your membership of one of the Schemes, please contact us using the contact details below.

### **Is my membership information properly recorded?**

Further to its appointment, Dalriada made contact with Liddell Dunbar Limited ("Liddell Dunbar") which has provided administration services to the Schemes. Liddell Dunbar has recently provided Dalriada with membership information which has been used to issue this Announcement to you.

In line with its standard appointment process, Dalriada believes that the issuing of this Announcement represents an appropriate point in time to complete a self certification exercise. Please find enclosed a blank self certification form for completion which will allow Dalriada to ensure that your personal information and furthermore your membership of the Schemes is properly recorded. Please return your completed form no later than 6 December 2019 using the prepaid envelope enclosed.

### **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 Dalriada (contact details are set out below). You should **not** contact Norton or Mr Garner.

As above, please also supply copies of all correspondence or other communications which you may have received in relation to your membership of the Schemes.

You can contact us as follows:

By Telephone: 028 9041 2891

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

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

**Issued by Dalriada Trustees Limited**

**November 2019**