

## Important Announcement to members of the following Pension Schemes (“The Schemes”)

Cranborne Star Pension Scheme  
Grosvenor Parade Pension Scheme  
Tallton Place Pension Scheme  
The Lancaster Pension Scheme  
The Portman Pension Scheme  
Woodcroft House Pension Scheme

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This is our 11<sup>th</sup> Announcement.

### **Previous trustees’ application for permission to appeal**

In our 10<sup>th</sup> Announcement dated 15<sup>th</sup> February 2013 we advised that Ms Oades was not successful in her application to obtain an order entitling her to act as a representative beneficiary and her request for payment of costs from the Schemes was also declined.

We were awaiting Ms Oades to confirm as to whether or not she intended to appeal this decision and, more generally, to clarify whether this meant that the application for permission to appeal (the decision reached in December 2011) would be dismissed or potentially still pursued.

Despite assurances from Ms Oades’ Counsel that a decision would be made quickly, it was some time before we got the confirmation requested. Thereafter, our legal advisers sought confirmation from the Court that the appeal application had, in fact, been dismissed and, also, that the position with regard to costs was made clear.

Obtaining the necessary confirmation from the Court proved equally frustrating. However we are pleased to say that this confirmation was finally received by our legal advisers just before Christmas. Athena Pension Services Limited and Minerva Pension Services Limited were ordered to pay the costs of Dalriada. These would, in turn, be paid into the pension schemes however, they are yet to make any payment.

The delays experienced have been particularly disappointing given we managed to achieve an initial ruling on the legitimacy of the MPVA loans back in December 2011.

We appreciate members’ patience to date. However, the ability to move forward is now, to a much greater extent, under Dalriada’s control and we have set out below the next steps we need to take.

### **Next steps**

As advised in our Announcement of 16<sup>th</sup> December 2011, we now require directions from the Court. There are two distinct elements to the application that will need to be made.

The first element is a Beddoe application, in which Dalriada will seek directions as to what approach to take with regard to seeking recovery of the MPVA loans made to members of another of the 6 Ark schemes.

A Beddoe application is a way of obtaining Court approval for any potentially contentious Court proceedings considered by scheme trustees where those actions require the use of trust funds. Any Beddoe application is heard in private. However, a representative beneficiary will be required to take part in the application so that the perspective of the members is considered. Such an application is standard procedure where there is any uncertainty surrounding the use of trust funds.

The second element will seek directions as to the extent to which there is any basis for segregation of individual member funds in relation to specific assets and, thereafter, regarding the division of costs and investment losses between schemes and between different categories of members. Those categories include:

- those members from whose fund an MPVA payment to a member of another scheme was apparently made
- those members from whose fund no MPVA was made
- those members who received an MPVA from another scheme
- those members who did not receive an MPVA from another scheme
- those members whose transfer came in after Dalriada's appointment.

We will also require directions as to how the timing of an investment relative to a member's date of joining might impact on how we value members' benefits.

However, we will endeavour to ensure that both elements are addressed by the Court at the same time. We will endeavor to have the Court hearing as soon as possible but it will still be some months away at the earliest.

## HMRC

Dalriada has been in discussion with HMRC and communication is ongoing.

HMRC has, in the last few weeks, set out its position that it **does** intend to levy unauthorised payment charges on members and we are aware that some members have been asked to complete self assessment tax returns and/or received tax assessments.

Further, HMRC intend to determine the unauthorised payment charges payable with reference to the loans made **by** the scheme of which an individual was a member.

Whilst we are not clear at this stage how individual tax assessments will be calculated, it does mean that those members who did not receive an MPVA payment might face a tax charge.

Dalriada has commented previously that, ultimately, it has no influence on individual tax assessments made by HMRC. However, the approach taken by HMRC may impact on other tax charges that might be levied against the Schemes (Scheme Sanction Charges) and, as such,

Dalriada is keen to maintain dialogue with HMRC and to work with them to ensure any issues arising from members' individual tax assessments are resolved as quickly as possible.

In light of possible further tax charges, Dalriada wishes to protect the Schemes from further investment losses and, as such, continues to adopt a very conservative investment strategy in relation to the funds it has been able to recover.

Dalriada is aware that certain comments have been made by or on behalf of members lately that it is important are corrected.

First, the judgment of Mr Justice Bean in December 2011 stands as a binding decision of the Court. His decision was that the MPVA payments were unauthorised payments and were void.

Secondly, as a result, they are arguably repayable. What approach is taken as regards repayment is entirely distinct from what stance HMRC might take regarding tax charges.

Dalriada will take action in this regard only as directed by the Court and, then, only after a representative beneficiary has had the opportunity of putting forward arguments on behalf of the members.

## **Investments**

### *Entrepreneurs Capital Holdings Limited ("ECH")*

Dalriada's legal advisers established that this was an investment of £1m, purchasing shares in ECH, a British Virgin Islands (BVI) company.

Dalriada's legal advisers corresponded for some time with ECH, attempting to obtain full documentation for the investment and to establish whether there was any chance of recovering the money.

Subsequently, our legal advisers were told that the money was, in fact, invested by way of a loan but ECH was not willing to provide details claiming the loan was subject to a non-disclosure agreement.

Our legal advisers persisted and we are pleased to advise that, in the last few weeks, the money has now been repaid in full together with interest of £112,777.

### *ROM Capital (Asset Management) Limited*

As we reported in our 28<sup>th</sup> January 2013 Announcement, this investment was originally intended to be a property unit trust, due to be listed on the Jersey stock exchange. Subsequently, Dalriada ascertained that the original promoters (ROM Capital) had decided to turn the fund into a limited company and issued shares and Dalriada had been asked to take ownership of the shares.

It has been established that the investment (just over £1m) was used to buy two properties, now owned by the limited company. The properties are likely to be worth less than the amount invested. Dalriada, through its legal advisers, continues to liaise with the parties involved with this investment.

## Summary

Dalriada is conscious that its last Announcement was some time ago. For the most part, we have been awaiting the resolution of the application for permission to appeal and, more recently, have been in discussion with HMRC. Throughout the last year we have continued to seek recovery of some of the investments, resulting in the successful recovery of the full investment in ECH, as reported above.

Taking into account the recovery of funds from Cyprus, reported in our January 2013 Announcement, Dalriada has now recouped over £5.4m from the sums invested originally by Athena and Minerva.

We will report to members again shortly if we have further information regarding the tax position and any further discussions with HMRC as well as regarding the next Court applications.

Dalriada will continue to look to move to a position of certainty as quickly as possible.

## Getting in contact

This Announcement has been uploaded onto our Frequently Asked Questions page available at [www.dalriadatrustees.co.uk/ark](http://www.dalriadatrustees.co.uk/ark)

If you wish to address any questions to Dalriada you should make contact in one of the following ways:

By using the Get in Touch form on our website [www.dalriadatrustees.co.uk/contact](http://www.dalriadatrustees.co.uk/contact)

By telephoning our helpline for members – 028 9041 2756

By post to:

Dalriada Trustees Limited  
22 Great Victoria Street  
Belfast  
BT2 7BA

By emailing [suzanne\\_wilson@dalriadatrustees.co.uk](mailto:suzanne_wilson@dalriadatrustees.co.uk)

**Issued by Dalriada Trustees Limited**

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