Dalriada. A better way

Important Announcement to members of the following pension schemes ("the Schemes")

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

Background

Dalriada Trustees Limited ("Dalriada") has been working with the Pension Protection Fund ("the PPF") to seek clarification around the operation of the Fraud Compensation Fund (the FCF"), in order to determine if a claim could be submitted to the FCF for compensation in relation to your Schemes.

The FCF was established under the Pensions Act 2004. The PPF is responsible for the operation and management of the FCF, which is otherwise a separate fund from the PPF itself. However, it has rarely been called upon.

The FCF is open to claims by occupational pension schemes that have suffered a loss as a result of an act of dishonesty. However, the wording of the legislation that brought in the FCF resulted in the PPF facing a number of questions around the rules governing eligibility for compensation. The PPF needed to be certain, before paying out any compensation, that there was proper legal entitlement to that compensation.

Court Hearing and Judgment

To resolve these legislative issues around the FCF, Dalriada participated in a court case brought by the Board of the PPF in July 2020. The Secretary of State for Work and Pensions was joined to the proceedings as an interested party.

On Friday 6th November, Mr Justice Trower handed down his judgment in relation to the case. The judgment deals with a number of important legal issues concerning the operation of the FCF. In making his judgment, Mr Justice Trower has determined that a significant number of pension schemes can, in principle, make applications to the FCF.

The judgment is welcomed by Dalriada as being generally positive for many members whose interests we represent as trustee.

What happens next

While the judgment has provided answers to some fundamental questions posed to the Court, Dalriada must now work closely with the PPF to agree the precise steps that need to be taken to ensure the appropriate legal process is followed.

The overall process may take a number of years to conclude. Evidence will need to be assembled to show where dishonesty has taken place, and Dalriada will need to resolve any question of tax issues for the Schemes with HMRC where they haven't been resolved already. The FCF is a fund of last resort and Dalriada will work with the PPF on the extent to which asset recovery is continued. Member and financial information must still be analysed to quantify the amount of any claim. There are also certain technical steps that will need to be taken in order to qualify schemes for compensation.

It is important to note that this judgment does not mean that yours or any other schemes of this nature to which Dalriada has been appointed as trustee will automatically be successful in its claim.

We understand that members have suffered a loss, but each claim submitted to the FCF will be determined on its facts. For example, the PPF will need to be satisfied that there is sufficient evidence of actual dishonesty in relation to the Schemes and also consider what specific losses have been caused by that.

At the point of writing, the judgment has just been released. We will keep you informed as and when we hear more from the PPF.

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

Via e-mail: incartusadmin@dalriadatrustees.co.uk

Issued by Dalriada Trustees Limited

November 2020