

# Valu-Trac Investment Management Limited

Authorised and regulated by the Financial Conduct Authority (FCA), registration number 145168.  
Registered in England No. 2428648

<http://www.valu-trac.com>

**Tel: +44 (0)1343 880344**

**Orton, Moray  
IV32 7QE**

23rd March 2021

Dear Sir/Madam,

## **VT Garraway Absolute Equity Fund (640190) (the "Fund")**

Further to our letter of 9 September 2020, we write to provide an update and to inform you that:

- (i) the claim which had been brought against the Fund (and for which provision had been made) has now been settled; and
- (ii) in light of the claim being settled and the continued sell down of assets, we are scheduling a further capital distribution.

### **Claim**

As you are aware from our letter dated 25 July 2019, provision has been made in respect of a claim which has been brought against the Fund (details of which are set out in that letter and repeated again at the end of this letter for ease). With a view to preserving and/or maximising the value of the Fund's assets we defended the claim which was made. As the case developed, and on the basis of legal advice, we and numerous other defendants in the case entered a mediation process with a view to settling the claim. This process was completed earlier this year and a settlement agreement was entered into in which it was agreed that \$3,571,995.20 be returned to the claimant. This means that over \$7M (£5M) for which provision was made is now available for distribution to shareholders in the Fund. The settlement was considered to be in the best interests of investors given the advice we received in respect of the risks associated (i.e. likely outcomes) with continuing to defend the case, and bearing in mind the legal costs associated with what was predicted to be a prolonged legal case with no certainty of success. The settlement now provides more certainty and allows further funds to be released to shareholders in the Fund.

We would note that in connection with the proceedings, we have also filed a claim to the US internal revenue service in respect of withholding tax which could be due to the Fund. If successful this claim would result in some further sums being returned to the Fund (and so if this happens, a further payment may become due to you).

### **Liquidation of investments**

The underlying investments of the Fund have also continued to be sold down and one particular illiquid investment, for which the value had been very uncertain, has now been able to be sold for over £6 million. With this in mind, and together with the sums able to be returned as a result of the claim being settled, we are now in a position to return to shareholders an additional £12 million from the Fund. This payment is to be made on/around 31 March 2021.

Following this distribution the Fund will have very limited assets and so we are closer to being in a position to wind-down the Fund. However, there are still a few remaining holdings, although the time period for the sell down cannot be guaranteed due to the illiquid nature of these holdings, some of which are unlisted investments. The Investment Manager, in consultation with and subject to instructions received from us, is seeking to liquidate the remaining positions in a manner which is in the best interests of the Fund. The Investment Manager will continue to monitor and assess the options for liquidation of the investments.

There is therefore expected to be at least one further (much smaller) distribution in due course and we will provide an update on this as soon as we have any material information to report in this regard.

### **Next steps**

You do not need to take any action at this time. However, if you have any questions in respect of any of the above please contact us on 01343 880344. We will update you again in due course, as and when appropriate.

Where appropriate funds will be paid to the bank details which were used for the payment of the initial distributions. If your investment is in an ISA wrapper, then one of the following actions will be undertaken:-

1. Funds transferred to your other ISA Provider in line with your previous instructions given for the initial distribution.
2. Funds have been reinvested into your existing ISA with Valu-Trac as per your previous instructions.
3. As instructed by you, funds have been released as a cash payment to you resulting in the loss of the ISA status.
4. If we are not in receipt of an instruction from you we will not automatically return the proceeds so as to retain the ISA status.

If we have not been provided with Bank details and/or suitable written instructions then we will retain the funds until such time as we are advised accordingly.

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**Registered Office:**

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If you are in any doubt about the action you should take following the termination we recommend that you speak with your financial adviser.

Kind regards

David Fraser FCCA  
Head of Administration Services

## **Claim:**

Valu-Trac Investment Management Limited (the Authorised Corporate Director or “ACD”) and Garraway Capital Management LLP (the Investment Manager) have been made aware of a claim which has been brought against VT Garraway Investment Fund Series IV (the umbrella fund of which VT Garraway Absolute Equity Fund is the only sub-fund)(the “Fund”) and nearly 50 other financial institutions and individuals by the Liquidating Trustee (the “Claimant”) of Orion Health Corp, Inc, Constellation Healthcare Technologies, Inc (“CHT”) and certain of their affiliated debtors and debtors-in-possession (the “Debtors”), in the United States Bankruptcy Court for the Eastern District of New York. The claim seeks the return of \$10,875,825.91 paid to the Fund in 2017 as part of a takeover of CHT, which was an AIM listed company. There are no allegations of any actual wrongdoing or fault by the Fund, the ACD or the Investment Manager (and indeed the ACD and Investment Manager had no involvement with the Fund at that time), but the Claimant alleges fraud by the Debtors’ former management and seeks recovery of these amounts pursuant to U.S. and Delaware laws. Whilst the Fund considers the merits of the case and the defences available to it, the ACD has decided that it is prudent for the Fund to make a provision in its accounts for the full amount claimed plus an amount for legal fees.

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