



Australian Government

Takeovers Panel

MEDIA RELEASE

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Thursday, 28 September 2017

RNY Property Trust – Panel Receives Application

The Panel has received an application from Aurora Funds Management Limited as responsible entity of the Aurora Property Buy-Write Income Trust in relation to the affairs of RNY Property Trust.

Details of the application, as submitted by the applicant, are below.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

Details

On 18 July 2017, Aurora requisitioned an extraordinary meeting of RNY unitholders seeking to replace RNY Australia Management Limited (**RAML**) as RNY's responsible entity. On 7 August 2017, RAML issued a notice of meeting for an extraordinary general meeting relating to (among other things) Aurora's requisition and a proposed resolution relating to the disposal of RNY's property portfolio and a distribution of cash to RNY's unitholders (**Disposal and Distribution Resolution**).

On 28 August 2017, Aurora¹ announced an off-market takeover bid for all the units in RNY not owned by Aurora, for a cash price of 1.5 cents per unit. The bid is conditional only on prescribed occurrences.²

At the extraordinary general meeting on 12 September 2017, the Disposal and Distribution Resolution was passed as a result of the votes of RAML's parent, RXR Reality LLC.

On 26 September 2017, RAML issued its target's statement disclosing that all of its directors recommend that RNY unitholders not accept Aurora's bid.

¹ as responsible entity of the Aurora Property Buy-Write Income Trust

² On 15 September 2017, Aurora announced (a) it would increase its offer to 1.7 cents per unit if it reaches a relevant interest in RNY of greater than 50% and when that happens, there have been no prescribed occurrences and (b) if the improved offer is triggered, it would also declare the offer free of its conditions

Aurora submits (among other things) that:

- RXR Reality LLC purported to vote in favour of the Disposal and Distribution Resolution in contravention of s253E of the Corporations Act (because it was entitled to fees paid on the disposal of RNY's properties).
- If the Disposal and Distribution Resolution is implemented, it will trigger a defeating condition in Aurora's bid and constitute a frustrating action.
- The target's statement inaccurately describes the choices faced by RNY unitholders, including the effect of accepting while the bid is conditional.

Aurora seeks final orders, including that RAML not take any steps to effect, or implement, the Disposal and Distribution Resolution unless Aurora consents, a Court determines the resolution was properly passed or the resolution is passed at a new meeting at which RAML and its associates including RXR Reality LLC do not vote. Aurora seeks an interim order in similar terms.

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