



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP19/65

Thursday, 14 November 2019

Australian Unity Office Fund – Panel Receives Application

The Panel has received an application from ASIC in relation to the affairs of Australian Unity Office Fund (AOF).

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 4 June 2019, Abacus Property Group and Charter Hall Group (the **Consortium**) announced the acquisition of a 19.9% strategic interest in AOF at \$2.95 per unit (held through a special purpose entity, CHAB Office Pty Ltd in its capacity as trustee of the CHAB Office Trust (**CHAB**)).

Also on 4 June 2019, the responsible entity of AOF¹ announced that it had received an unsolicited, indicative and non-binding proposal from CHAB to acquire all of the issued units in AOF that it does not already hold for \$2.95 cash per unit. On 3 July 2019, the responsible entity of AOF announced an improved proposal from CHAB at \$3.04 per unit.

On 2 September 2019, the responsible entity of AOF announced that it and CHAB had entered into a scheme implementation agreement for CHAB to acquire all the units in AOF it does not already hold by way of a trust scheme for \$3.04 per unit. On 4 October 2019, the responsible entity of AOF announced that the scheme meeting was scheduled for 7 November 2019.

On 31 October 2019, the Consortium announced that CHAB had divested its 19.9% interest in AOF for a total consideration of \$95.6 million, equivalent to \$2.95 per AOF

¹ Australian Unity Investment Real Estate Limited

unit (the **Divestment**). On 7 November 2019, the responsible entity of AOF announced that the scheme meeting was adjourned to 18 November 2019.

ASIC submits, among other things, that:

- CHAB has intervened in the market for securities in AOF during the course of its proposed takeover of AOF in a way that undermines the integrity of the trust scheme mechanism and the basis for the compulsory expropriation of interests in AOF that will result if the trust scheme is approved.
- If the scheme is approved not all unitholders in AOF will have had an equal opportunity to participate in the benefits offered under the scheme given the selective nature of the sale process undertaken to effect the Divestment.

ASIC seeks an interim order to the effect that the scheme meeting be adjourned.

ASIC seeks the following final orders (in the alternative):

- that in the event the trust scheme is approved by the requisite majorities, CHAB gives a cash payment to all AOF unitholders (other than those that acquired units from CHAB under the Divestment) that is equivalent to the benefit being the difference between the sale price under the Divestment and the prevailing market price or as otherwise determined by an independent expert (if necessary) or
- AOF is to determine whether the requisite majorities for the trust scheme resolutions are achieved by subtracting 19.9% of units from all votes cast in favour of the resolutions and treating those units as if they did not cast a vote.

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