



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP20/24

Thursday, 9 April 2020

Keybridge Capital Limited 04, 05 & 06 – Orders

The Panel made a declaration of unacceptable circumstances on 7 April 2020 in relation to the affairs of Keybridge Capital Limited (see [TP20/23](#)).

The Panel has made final orders (Annexure A), including that (in effect):

- WAM Active Limited cannot exercise any voting rights that attach to any shares WAM Active acquired through processing acceptances above what it could have otherwise acquired under its ‘creep’ capacity.
- WAM Active must comply with a request from any person whose Keybridge shares were acquired by WAM Active (through processing acceptances) for that transaction to be reversed. This order ceases to apply if a Court makes orders or a declaration that are inconsistent with the order.
- All unprocessed acceptances into WAM Active’s bid are cancelled.
- Any person that has accepted into the bid made by Aurora Funds Management Limited as responsible entity for Aurora Dividend Income Trust has the right for a period of time to withdraw that acceptance.

The sitting Panel was Chelsey Drake, Bruce McLennan and Sharon Warburton (sitting President).

The Panel will publish its reasons for the decision in due course on its website www.takeovers.gov.au.

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Takeovers Panel

ANNEXURE A
CORPORATIONS ACT
SECTION 657D
ORDERS

KEYBRIDGE CAPITAL LIMITED 04, 05 & 06

The Panel made a declaration of unacceptable circumstances on 7 April 2020.

THE PANEL ORDERS

WAM Active's bid

1. For a period of 6 months after the date of these orders, WAM Active must not exercise any voting rights in respect of any Keybridge shares in which WAM Active has a relevant interest above the Creep Limit.
2. Order 1 does not apply to any shares WAM Active acquires through a takeover bid made after the date of these orders but continues to apply otherwise.
3. Unless a Court makes orders or a declaration inconsistent with this Order, from and including the date of these orders WAM Active must comply with a request from any Processed Shareholder to reverse the transaction by which WAM Active acquired any Processed Shares from that Processed Shareholder.
4. All Unprocessed Acceptances are immediately cancelled.
5. WAM Active must:
 - (a) as soon as practicable, and in any event within 2 business days, provide to the Panel:
 - (i) a draft notice to be sent to all Unprocessed Shareholders informing them that their acceptances have been cancelled and
 - (ii) a draft notice to be sent to all Processed Shareholders informing them that their acceptances have been processed, the effect of Order 3 and that WAM Active's bid closed at 7.00pm (Sydney time) on 3 March 2020 subject to defeating conditions
 - (b) make any changes to either draft notice if requested by the Panel and

- (c) as soon as practicable after the Panel confirms it has no comments or no further comments on the draft notice to be sent to all Unprocessed Shareholders, send the relevant notice by express post to all Unprocessed Shareholders with no other accompanying documents and
- (d) unless a Court makes orders or a declaration inconsistent with Order 3, as soon as practicable after the later of:
 - (i) the Panel confirming it has no comments or no further comments on the draft notice to be sent to Processed Shareholders and
 - (ii) any date set by the Panel that is not later than 21 days after the date of these orders,
 send the relevant notice by express post to all Processed Shareholders with no other accompanying documents.

ADIT's bid

- 6. Each ADIT Accepting Shareholder has a right to withdraw their acceptance into ADIT's off market bid for Keybridge. The withdrawal right commences on the date of these orders and ceases 14 days after the despatch of the notices and enclosed election forms to ADIT Accepting Shareholders in accordance with Order 8(a).
- 7. ADIT must:
 - (a) as soon as practicable, and in any event within 2 business days after the date of these orders, provide to the Panel a draft notice to be sent to all ADIT Accepting Shareholders, which:
 - (i) explains the effect of these orders, including informing ADIT Accepting Shareholders of their right to withdraw their acceptance
 - (ii) explains the effect of the declaration as it relates to ADIT's off market bid for Keybridge and
 - (iii) encloses an election form for the exercise of that withdrawal right and
 - (b) make any changes to the draft notice or election form if requested by the Panel.
- 8. To give effect to Order 6, ADIT must:
 - (a) as soon as practicable after the Panel confirms it has no comments or no further comments on the draft notice and enclosed election form, send those documents by express post to all ADIT Accepting Shareholders with no other accompanying documents and

- (b) as soon as practicable, take all steps necessary to give effect to the exercise of a withdrawal right by an ADIT Accepting Shareholder. For the avoidance of doubt, any communication from an ADIT Accepting Shareholder requesting a withdrawal of the ADIT Accepting Shareholder's acceptance must be actioned by ADIT, irrespective of whether the shareholder used the form referred to in Order 7(a)(iii).
9. If any ADIT Accepting Shareholder notifies ADIT that it intends to exercise a withdrawal right, or has exercised a withdrawal right (but the withdrawal has yet to be processed or become effective), ADIT must vote at any meeting of Keybridge the ADIT Accepting Shareholder's shares in accordance with any direction given by the ADIT Accepting Shareholder.
 10. Without limiting the means by which an ADIT Accepting Shareholder can notify ADIT for the purpose of Order 9, notification can be given by email sent to either enquiries@aurorafunds.com.au or jpatton@aurorafunds.com.au.
 11. ADIT must not take any steps, or allow any steps to be taken, to process any acceptances or transfers received in relation to its off market bid for Keybridge until 14 days after the despatch of the notices and enclosed election forms to ADIT Accepting Shareholders in accordance with Order 8(a).

Other

12. The parties to these proceedings and ASIC have the liberty to apply for further orders in relation to these orders.
13. In these orders the following terms apply:

ASIC	Australian Securities and Investments Commission
ADIT	Aurora as responsible entity for Aurora Dividend Income Trust
ADIT Accepting Shareholder	Any person that has accepted ADIT's off market bid for Keybridge as at the date of these orders
Aurora	Aurora Funds Management Limited
Corporations Act	<i>Corporations Act 2001</i> (Cth)
Creep Limit	45,438,354
date of these orders	9 April 2020
Keybridge	Keybridge Capital Limited

Processed Shareholders	Any person who accepted into WAM Active's off market bid for Keybridge that had their acceptance processed by WAM Active
Processed Shares	16,057,929 Keybridge shares registered in the name of WAM Active as a result of it processing acceptances under its off market bid for Keybridge
Unprocessed Acceptances	Any acceptances received by WAM Active in relation to its off market bid for Keybridge that have not been processed
Unprocessed Shareholders	Keybridge shareholders that have provided Unprocessed Acceptances to WAM Active
WAM Active	WAM Active Limited

Tania Mattei
Counsel
with authority of Sharon Warburton
President of the sitting Panel
Dated 9 April 2020