

## Aurora Fortitude Absolute Return Fund (AFARF)

Performance <sup>1</sup>	1 month	3 months	FYTD
Aurora Fortitude Absolute Return Fund	0%	0%	0%
Benchmark	0.34%	1.03%	1.03%
Outperformance	-0.34%	-1.03%	-1.03%

### Investment Objective

The Aurora Fortitude Absolute Return Fund ("Fund") seeks to achieve absolute returns and income through the use of several different investment strategies. The focus on absolute returns differs from traditional funds in that the Fund aims to produce positive returns regardless of equity market conditions or global market indices.

### Investment Strategy

The Fund seeks to take advantage of market mispricing and arbitrage opportunities using a diverse range of investment strategies. The Responsible Entity of the Fund researches various criteria for each investment, including fundamental and quantitative analysis, company event situations such as takeovers and mergers, earnings announcements, demergers and restructuring, liquidity events, recapitalisations, multiple share classes, option availability and pricing.

The Fund will invest in opportunities that are considered to offer attractive risk return characteristics with a focus on potential catalysts that seek to generate a profitable return regardless of the market direction. The Fund may use derivatives for risk management as well as to create new positions and may opportunistically short sell securities that may be overpriced or to reduce risk on the overall portfolio.

### Portfolio Position Analysis

#### Number of Positions

Long	4
Short	0

### Top Portfolio Holding (as at 30 September 2023)

Name	ASX Code
Aurora Global Income Trust	AIB

### Fund Overview

APIR Code	AFM0005AU
NAV per Unit	\$0.0
Structure	Fund
Investment Style	Value/Special Situation
Inception Date	28 February 2005
Management Fee (incl.GST)	1.49%
Performance fee (incl.GST)	20.5%
Buy / sell spread	+/- 0.02%
Entry / Exit fees	Nil
Benchmark	RBA Cash Rate
Distributions	2.0% <sup>a</sup> pa, semi-annually

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**Fund Update****Molopo Energy Limited**

AFARF holds an investment in the ordinary shares of Molopo Energy Limited (ASX: MPO), which was suspended from trading on the Australian Stock Exchange on 27 July 2017 and remains suspended as at the date of this update.

On 1 February 2019, Aurora announced that the fair value of the holding in Molopo had been reduced from 2.6 cents per share to 1.9 cents per share, based on material information which had come to light between 27 September 2018 and 1 February 2019. On 2 September 2019, Aurora announced that the fair value of the holding in Molopo had been further reduced to 1.5 cents. On 30 October 2019, Aurora announced that the fair value had been further reduced to 0.9 cents. On 6 February 2020, Aurora announced that the fair value had been further reduced to 0.5 cents. On 31 August 2020, Aurora announced that the fair value had been further reduced to 0.4 cents.

On 25 February 2021, Molopo released its Quarterly Cash Flow Statement for the quarter ended 31 December 2020. Based on the information contained in this Quarterly Cash Flow Statement, Aurora has reassessed the carrying value of its investment in Molopo and has decided to write the value of its investment down from 0.4 cents to nil. The rationale for this decision is summarised below:

- Today, Molopo's primary assets comprise its cash reserves and its investment in Drawbridge. Molopo has advised that the cash reserves at 31 December 2020 amounted to A\$8.368 million. Based on the structure of the Drawbridge investment, whereby Molopo has a 30% holding in a foreign private company with no voting rights and only a limited ability to appoint a director, it is difficult to ascribe any value to this investment – based on the information that has been released to date by Molopo. As such, for the purpose of valuing its investment in Molopo, Aurora continues to place nil value on the Drawbridge investment. Aurora notes that this treatment is consistent with the approach adopted by the current directors of Molopo. The Directors' Report contained in Molopo's Financial Report for the half year ended 30 June 2020 states:

*"The Current Directors of Molopo ... continue to undertake detailed investigations into the Orient Transactions and the Drawbridge Transactions which were entered into by former Directors of Molopo without seeking shareholder approval. The Current Directors maintain these actions were in breach of Directors duties, the ASX Listing Rules, ASX continuous disclosure obligations and provisions of the Corporations Act. This position has been supported by subsequent findings of the Takeovers Panel.*

*In brief, the combined Orient Transactions and Drawbridge Transactions involved in aggregate a US\$35 Million investment by Molopo in Orient FRC Limited, a British Virgin Islands entity which, as a wholly-owned subsidiary of Molopo, Orient ultimately acquired a 30% non-voting A class share interest in Drawbridge.*

*Sopris Energy Investments Ltd., another British Virgin Islands entity and the majority 70% shareholder of Drawbridge, holds 100% of the voting rights in Drawbridge which it appears to have acquired without contributing any cash or other assets to the transaction."*

Further, the Directors' Report contained in Molopo's Financial Report for the half year ended 30 June 2019 states:

*"In the year ended 31 December 2018, the Current Directors resolved that they could not identify evidence to support a value for the oil & gas exploration and production assets held by Drawbridge and accordingly Molopo's investment through Orient was impaired to Nil, as reported in the 31 December 2018 Annual Report.*

*Although the Current Directors have impaired the investment in full, they continue to vigorously pursue legal proceedings against the Former Directors of the Company responsible for entering into these transactions to hold them accountable for breach of directors' duties with the objective of recovering as much value as possible for Molopo shareholders.*

*The Current Directors remain firmly of the view that the litigation proceedings against the Former Directors provides the best opportunity for Molopo shareholders to recover any value from the actions undertaken by Former*

*Directors entering into the Orient Transactions and Drawbridge Transactions.”*

- In the June 2020 Quarterly Activities Statement, released on 31 July 2020, Molopo advised that:

*“Drawbridge Operations*

*Molopo has received Financial Statements and an Operations Report for 4Qtr-2019 which Drawbridge was required to provide within 60 days of the end of that quarter as ordered by the Court. Molopo has also received Financial Statements and an Operations Report for 1Qtr-2020. The Directors are unable to rely on these Financial Statements and Operations Reports with any confidence as they provide no financial detail and do not disclose any significant update on project operations.*

*Legal Actions*

**Drawbridge** – *the Company’s legal action in the USA against the Drawbridge group was amended to a reduced claim for breach of the Contribution Agreement with the remaining claims discontinued without prejudice, after the Drawbridge parties filed for Summary Judgment in the proceedings. The remaining claim by Orient against Drawbridge for breach of the Contribution Agreement has been set down for hearing on 5 August 2020*

**Former Directors** – *... the Company continues to vigorously pursue its claims in the Supreme Court of Victoria against the Former Directors of the Company (which now includes the Estate of the Late Samuel Belzberg) and remains confident that this will result in a successful recovery against the Former Directors”.*

- In the financial statements for the half-year ended 30 June 2020, Molopo continued to recognise a contingent liability in relation to a long-standing legal action in Canada concerning the Company and Molopo Energy Canada Ltd (“MECL”), a wholly owned subsidiary of the Company. In the annual audited financial statements for the year ended 31 December 2018, which were released by Molopo on 7 May 2019, the long-standing provision of C\$8.4 million was removed, with the following commentary being provided:

*“In March 2011, MECL was served with a statement of claim by a former joint venture partner (3105682 Nova Scotia ULC) “310 ULC”) claiming MECL breached various agreements relating to the relevant joint venture, including breach of fiduciary duties, trust and good faith. 310 ULC has sought declarations, accountings, damages of 25% revenue, C\$35.0 (A\$35.9) million general damages, C\$1.0 (A\$1.0) million punitive and aggravated damages, interest, GST and indemnity costs.*

*Subsequent to the filing of the statement of defence, the Company undertook an extensive examination of the transactions that gave rise to the amounts in dispute. This examination resulted in the Company applying a provision in the accounts in 2012 of a net C\$5.0 (A\$5.1) million. In early 2013, the JV Partner settled a counterclaim by making a payment of C\$3.4 (A\$3.5) million to the Company, at which time the Company increased the provision to C\$8.4 (A\$8.6) million.*

*During the current reporting period the Directors have reconsidered the circumstances that gave rise to recognition of the provision. A significant amount of time has passed since the provision was brought to account with limited progress on the claim. The Directors have reviewed the current status of the claims as provided by its lawyers and based upon this status update, the time elapsed and the limited progress made in the proceedings, they have taken the view that the amount of the provision can no longer be reliably measured, and therefore no longer meets the recognition criteria for a liability. Based on these findings, the Directors have reversed the provision and fully disclosed the claims as a contingent liability.”*

This is consistent with the disclosures made in the financial statements for the financial year ended 31 December 2019.

- Molopo currently has 249,040,648 ordinary shares on issue;

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- Based on the above, Aurora considers the appropriate carrying value of its investment in Molopo to be nil, calculated as follows:
    - cash reserves of \$8.368 million; less
    - litigation provision of A\$8.571 million, being the Australian dollar equivalent of \$8.4 million Canadian dollars as at 31 December 2020. In the Molopo financial statements for the year ended 31 December 2018 this provision was removed as a liability in the balance sheet and disclosed as a contingent liability. It is still disclosed as a contingent liability in Molopo's financial statements for the half year ended 3 June 2020. For the purpose of this valuation, Aurora has no reason to believe that this is not a reasonable estimate of the expected liability;
    - divided by 249,040,648 ordinary shares on issue; which
    - equates to a negative value per share.
  - As more information is released by Molopo on the Drawbridge investment, including the outcome of the claim against the Former Directors, along with the Canadian litigation, it may be appropriate for Aurora to revisit the carrying value of its Molopo investment.

The fair value of the Molopo Investment is based on significant estimates and judgements adopted by the Board of Aurora based on all available information about Molopo as at the current date.

The Aurora Board considered the range of possible values and determined that the fair value of the Molopo investment held by the Fund should now be valued at nil.

In a letter to shareholders, dated 2 May 2023, Molopo Energy Limited (Molopo) advised "the Company has approximately AUD\$16.9 million in cash and a debt owing to Molopo from a subsidiary of Renegen Limited of approximately AUD4.2 million which has preconditions to its payment and, from 1 January 2023, now accrues interest."

Further, it added that "as foreshadowed at last year's Annual General Meeting the Board's focus has been concentrated on defending the long running Canadian proceedings against the Company's subsidiary Molopo Energy Canada Limited (MECL) which were commenced in 2011. Since our meeting last year those proceedings are continuing and have now progressed through the discovery process and interrogation of witnesses which has been both detailed and time consuming.

The proceedings involve the claim for damages by 3105682 Nova Scotia ULC (310) against MECL and Crescent Point Holdings Inc and Crescent Point Energy Corp (Crescent Point) arising from the sale of the Company's subsidiary's oil and gas assets in 2011. Crescent Point has cross claimed against MECL in relation to potential losses it may incur. The claims for damages by 310 are significant and complex and are being strongly defended by both MECL and Crescent Point but again at significant expense to shareholders. It was anticipated that a court directed mediation would take place in April this year, however, the mediation has now been scheduled for the 5th and 6th December 2023 in Calgary.

The Board will continue to vigorously defend the proceedings.

Aurora notes that the value of the Funds (AFARF/ABW and AIB) investment in Molopo was written down to nil during the year ended 30 June 2021. The Funds have not adjusted the carrying value of its investment as it is waiting on the outcome of other litigation matters that Molopo is involved in.

The Funds continue to adopt a carrying value of \$nil per Molopo share. Aurora will re-assess the carrying value of its investment in Molopo based on further information being released by Molopo regarding its financial position.

#### **Aurora Property Buy-Write Fund (AUP) holding.**

The Fund also has an indirect exposure to Aurora Property Buy-Write Fund through its significant holding in AUP. This investment was valued by AUP's end of month Net Tangible Asset (NTA) of \$0.00.

#### **Aurora Global Income Trust (AIB) holding.**

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The Fund also has an indirect exposure to Aurora Global Income Trust through its holding in AIB. This investment was valued by AIB's end of month Net Tangible Asset (NTA) \$0.0496.

**Significant Holding via investments in RNY Property Trust**

RNY Property Trust (RNY) is an Australian unlisted property trust with five (5) commercial property assets located in the tri-state area of New York, USA, with 3 properties located in Long Island and 2 properties located in Westchester County, collectively having 830,000 sq feet of lettable office space. Huntley Management Limited is the responsible entity for RNY and Aurora Funds Management Limited is the investment manager.

In August 2021, RNY's US lender to RNY Australia Operating Company (US LLC), ACORE Capital ('the Lender'), advised that it would not extend the Loan facility through to October 2022, as contracted, as the Lender considered that documents relating to the net worth test were not administratively executed to its satisfaction and constituted an event of default. Aurora refutes the position adopted by the Lender and notes that the Lender nonetheless continues to rely upon the documents.

In late 2022, the Lender took steps to enforce its security by seeking to commence foreclosure action, seeking to appoint a receiver, and selling the mezzanine debt in the US properties through a Uniform Commercial Code (UCC) auction process. ACORE also advised that default interest of circa US\$11 million was due under the loan, however provided no formal paperwork to support this was claim. The UCC auction process was ultimately cancelled after RNY's related entity, RAOC, acquired the mezzanine debt and paid the associated fees (circa US\$1 million).

In March 2023, the Supreme Court of the State of New York County of Nassau (in Long Island) appointed a Rent Receiver over the five RNY properties, being a party independent of the party nominated by the Lender. The Rent Receiver posted a bond and filed an Oath with the Court around 11 April 2023, thereby formalising his appointment. Notwithstanding this appointment, CBRE continues to manage the RNY properties.

Based on recent discussions with the Rent Receiver:

- The strong leasing activity and Letters of Leasing Intent at Tarrytown prior to the Rent Receiver's appointment, as mentioned in the last Fund Update of 23 February 2023, have not materialised and no new leases have been executed since March 2023; and
- The Rent Receiver's remuneration is based on a % of cash receipts and expenditures (including operating costs and capital expenditure) rather than a time-based arrangement.

Aurora denies that the Group was in breach of the loan obligations and continues to defend the enforcement actions taken by the Lender. In the meantime, the additional expenses associated with the Rent Receiver represent a permanent diminution in value for RNY unitholders.

RNY owns 100% of RNY Australia LPT Corp (Maryland REIT) which in turn owns 75% of RNY Australia Operating Company LC (US LLC), which in turn owns the five RNY properties in separately held subsidiaries. Aurora and parties associated with it, including its Funds, own 79.9% of the units in RNY, with Keybridge Capital Limited (ASX: KBC) holding 17.3% and the remaining unitholders holding 2.8%.

Since the last Fund Update, attempts have been made to resolve the deadlock situation with the Lender. Until this matter is satisfactorily resolved, and a new debt facility can be agreed, there is significant uncertainty regarding the valuation of the subordinated loans and equity interests in RNY.

The Lender has, on several occasions, expressed interest in taking over ownership of the RNY properties, however, has stated that it would only be prepared to offer token consideration.

Based on the uncertainty created by the Lenders actions as outlined above, including unsupported claims for default interest, the Aurora Board considers it appropriate to fully impair to nil the carrying value of its equity investments in RNY and the subordinated loans it has advanced to RAOC, until such time as the impasse with the Lender can be resolved.

The fair value of the RNY equity investments and subordinated loans is based on significant estimates and judgements adopted by the Board of Aurora based on all available information about RNY as at the current date. The Aurora Board is aware of the material impact this decision will have on Aurora and its Funds.

Further, Aurora notes that RNY's second largest unitholder, Keybridge, has fully impaired the carrying values of its 17.3% equity investment in RNY as well as the subordinated loan it advanced to RAOC (which was used to acquire the mezzanine debt in the US properties). Keybridge has stated that the recoverability of its interests in RNY is dependent upon the prevailing market value of the underlying US properties less the senior debt. Further, given the state of the broader market, expectations on property values and the status of the dispute with RNY's Lender, Keybridge considers its subjective valuation to be appropriate.

The Aurora Board considered the range of possible values and determined that the fair value of the RNY equity investments and subordinated loans held by Aurora and its Funds should now be valued at nil. Aurora will continue to pursue its options to resolve the deadlock with the Lender.

### **Redemptions**

Given the uncertainty created by the abovementioned matters, where applicable, Aurora considers it prudent to maintain a temporary hold on Redemptions until the outcome of the above two (2) matters is known.

### **About Aurora**

Aurora Funds Management Limited ("Aurora") is the Responsible Entity of the Fund. Aurora is an Australian based alternative asset manager that specialises in managing absolute-return strategies for high net worth, retail, and institutional investors. Aurora utilises a value-orientated approach to select suitable investments that aim to provide investors with positive risk-adjusted returns that are independent of benchmarks or investment cycles.

Aurora is also the Responsible Entity of the:

- Aurora Absolute Return Fund (ABW)
- Aurora Dividend Income Trust (APIR Code: AFM0010AU)
- Aurora Global Income Trust (AIB)
- Aurora Property Buy-Write Income Trust (AUP)
- HHY Fund (HHY)

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1. This number represents a cumulative return and assumes reinvestment of distributions and is generated with compounded monthly returns/net of fees. ^2.0% pa of distributable taxable income.

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