

Report of the statutory auditor on the draft  
terms of merger by acquisition  
of Beway sa by Befimmo sa

**Befimmo SA**

March 2019

by  
Ernst & Young Réviseurs d'Entreprises scrl  
represented by  
Christel Weymeersch\*  
Partner

\*Acting on behalf of a BVBA/SPRL

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## 1. Mandate and mission

Ernst & Young Réviseurs d'Entreprises scrl represented by Christel Weymeersch, Partner, at 1831 Diegem, De Kleetlaan 2, was requested by the Board of directors of Befimmo sa, as statutory auditor to issue a report, in accordance with article 695 of the Company Code, on the draft terms of merger by the boards of directors of the companies Befimmo sa and Beway sa related to a merger by acquisition of Beway sa by Befimmo sa.

Article 695 of the Company Code stipulates (free translation):

*« In every company, a written report on the draft terms of merger, has to be issued by the statutory auditor, or in case there is no statutory auditor, by an independent auditor ("réviseur d'entreprises") or by an external accountant ("expert-comptable externe") designated by the directors or managers.*

*The designated statutory auditor, the independent auditor or the external accountant has to state that, in his opinion, the share exchange ratio is relevant and reasonable or not.*

*This statement has to include at least :*

- 1° which methods were used to determine the proposed share exchange ratio;*
- 2° if these methods are appropriate and which method leads to which value; also an opinion on the relative importance of each method in the value which is finally retained.*

*The report also indicates any particular valuation problems, if any.*

*The designated statutory auditor, the independent auditor or the external accountant can consult all documents relevant for the engagement. They are entitled to request, from the companies participating in the merger, all explanations and information and to proceed to all verifications that seem necessary to them. ».*

## 2. Description of the transaction

The proposed merger is a merger by acquisition. The Acquiring Company will acquire the Acquired Company upon completion of the proposed merger.

Pursuant to article 682 of the Company Code, the merger will involve *ipso jure* and simultaneously the following consequences:

- the acquired company shall cease to exist, following its dissolution without being put into liquidation;
- the shareholder of the acquired company shall become *ipso jure* shareholder of the acquiring company;
- all of the assets and liabilities of the acquired company will be transferred to the acquiring company.

If these draft terms of merger are approved by the extraordinary general meeting of Befimmo and by the extraordinary general meeting of Beway, Beway will cease to exist *ipso jure* following its dissolution without being put into liquidation and will be removed from the list of institutional BE-REITs. The sole shareholder of Beway, i.e. Fedimmo, will become shareholder of Befimmo.

### 3. Companies participating in the merger

#### 3.1. Acquiring company: Befimmo sa

The acquiring company is the public BE-REIT (*Société Immobilière Réglementée Publique / Openbare Gereguleerde Vastgoedvennootschap*) under Belgian law Befimmo, under the form of a public limited liability company (*société anonyme / naamloze vennootschap*), having its registered office at 1160 Auderghem, Chaussée de Wavre 1945. It is hereinafter called the "Acquiring Company" or "Befimmo".

Befimmo is governed by the law of 12 May 2014 regarding BE-REITs (hereinafter, the "BE-REIT Law") and by the Royal Decree of 13 July 2014 regarding BE-REITs (hereinafter, the "BE-REIT Royal Decree").

Befimmo has been incorporated under the form of a public limited liability company and under the corporate name "WOLUWE GARDEN D" under the terms of a deed drawn up by Gilberte Raucq, Notary Public in Brussels on 30 August 1995, published by excerpt in the Annexes to the Belgian State Gazette under number 950913-24.

The articles of association have been amended for the last time on 24 April 2018 under the terms of a deed drawn up by Damien Hisette, Notary Public in Brussels, published in the Annexes to the Belgian State Gazette on 22 May 2018, under number 18080114.

Befimmo is registered with the register of legal entities (Brussels, French section) under number 0455.835.167 and with the VAT under number BE 455.835.167.

As at the date of the draft terms of merger, the share capital of Befimmo amounts to EUR 371,627,206.35, represented by 25,579,214 shares without nominal value and all fully paid-up.

Befimmo has, in accordance with article 4 of its articles of association, the following corporate purpose:

" 4.1. The company has as exclusive purpose:

- (a) making real estate available to users directly or through a company in which it holds a participation in accordance with the provisions of the BE-REIT regulation, and;
- (b) within the limits set out by the BE-REIT regulation, hold real estate assets listed in article 2, 5°, i) to xi) of the BE-REIT-law.

By real estate is meant :

- i. real estate as defined in articles 517 and following of the Civil Code and the rights in rem over real estate, excluding real estate of a forestry, agricultural or mining nature;
- ii. shares with voting rights issued by real estate companies, whose more than 25% of the share capital is held directly or indirectly by the company;
- iii. option rights on real estate ;
- iv. shares of public regulated real estate companies or institutional regulated real estate companies, provided, in the latter case that more than 25% of the share capital is held directly or indirectly by the company;
- v. the rights arising from contracts giving one or more goods in finance-lease to the company or providing other similar rights of use;
- vi. shares in public and institutional real estate investment companies;
- vii. shares in foreign real estate funds, included in the list referred to in article 260 of the Act of 19 April 2014 on alternative investment funds and their managers;



- viii. *shares in real estate funds established in another member state of the European Economic Area not included in the list referred to in article 260 of the act of 19 April 2014 on alternative investment funds and their managers, to the extent that they are subject to supervision equivalent to the supervision that is applicable to public real estate investment companies;*
- ix. *shares issued by companies (i) with legal personality; (ii) under the law of another member state of the European Economic Area; (iii) which shares are admitted, or not, to trading on a regulated market and are subject, or not, to prudential supervision; (iv) whose main activity consists in acquiring or building real estate in order to make it available to users, or the direct or indirect holding of participations in certain types of entities with a similar corporate purpose and (v) that are exempt of income tax on profits in respect of the activity referred to in (iv) above, subject to compliance with certain requirements, at least pertaining to the legal obligation to distribute part of their income to their shareholders (the "Real Estate Investment Trusts", or "REITs");*
- x. *real estate certificates, referred to in article 5, § 4 of the Act of 16 June 2006;*
- xi. *shares of FIIS/GVBF.*

*Real-estate assets referred to in article 4.1., (b) subparagraph 2, (vi), (vii), (viii), (ix) and (xi) above that constitute shares in alternative investment funds within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on management of alternative investment funds and amending Directives 2003/41/EC and 2009/65/EC and the Regulation (EC) n° 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies and (EU) N° 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Securities and Markets Authority), amending decision n° 716/2009/EC and repealing Commission Decision 2009/77/EC, cannot be qualified as voting shares issued by real estate companies, regardless of the amount of the shareholding held directly or indirectly by the company.*

- (c) *enter into, in the long term, where appropriate in collaboration with third parties, directly or through a company in which it holds a shareholding in accordance with the regulation, with a public contracting authority or adhere to one or many:*
  - (i) *DBF-contracts (« Design, Build, Finance»);*
  - (ii) *DB(F)M-contracts (« Design, Build, (Finance) and Maintain »);*
  - (iii) *DBF(M)O-contracts (« Design, Build, Finance, (Maintain) and Ope-rate »); and/or*
  - (iv) *contracts for public works concessions relating to buildings and/or other real estate infrastructures and to services relating thereto, and on the basis of which:*
    - *the company is responsible for the provision, maintenance and/or operation for a public entity and/or citizens as end-users, in order to satisfy a social need and/or to allow the offer of a public service; and*
    - *the company, without necessarily having rights in rem, can assume, in whole or in part, the financing risks, the availability risks, the demand risks and / or the operational risks, as well as the risk of building;*

- (d) *ensure in the long-term, as the case may be in collaboration with third parties, directly or through a company in which it has a shareholding in accordance with the BE-REIT regulation, the development, establishment, management, and operation, with the possibility of outsourcing these activities:*
  - (i) *storage installations and facilities for the transport, distribution or storage of electricity, gas, fossil or non-fossil fuels, and energy in general, including assets related to such infrastructures;*
  - (ii) *installations for the transport, distribution, storage or purification of water, including assets related to such infrastructures;*
  - (iii) *facilities for the generation, storage and transport of renewable energy, or not, including assets related to such infrastructures; or*
  - (iv) *incinerators and landfills, including assets related to these infrastructures.*
- (e) *initially hold less than 25% in the capital of a company in which the activities referred to in this article 4.1, (c) are carried out, provided that such shareholding is converted by transfer of shares, within a period of two years, or any other longer period required by the public entity with which the contract is entered into, and after the end of the phase of constitution of the PPP project (within the meaning of the BE-REIT regulation), in a participation which is in accordance with the BE-REIT regulation.*

*In the context of the making available of real estate, the company can, in particular, exercise all activities related to the construction, rebuilding, renovation, development, acquisition, disposal, management and exploitation of real estate.*

4.2. *On an ancillary or temporary basis, the company may make investments in securities which are not real estate within the meaning of the BE-REIT regulations. These investments will be made in compliance with the risk management policy adopted by the company and will be diversified in a way to ensure an adequate risk diversification. The company can also hold unallocated liquidities, in any currency, in the form of cash or term deposit or in any instrument of the monetary market that can be easily mobilised.*

*The company may also trade in hedging instruments, with the exclusive aim to hedge the interest rate and exchange risk in the context of the financing and management of the activities of the company referred to in article 4 of the BE-REIT law and with the exclusion of any transaction of a speculative nature.*

4.3. *The company may take or give one or more real estate assets in finance-lease. The activity of giving real estate assets in finance-lease with a purchase option can only be carried out in ancillary order, save where these real estate assets are intended for the public interest including social housing and education (in which case the activity can be carried out as a primary activity).*

4.4. *The company may by way of a merger or otherwise, take an interest in all businesses, undertakings or companies having a similar or related purpose and which are of a nature that favours the development of its business and, in general, to do all transactions that are directly or indirectly linked to its corporate purpose as well as all acts that are useful or necessary for the realisation of its corporate purpose. "*



### 3.2. Acquired company: Beway sa

The acquired company is the institutional BE-REIT (*Société Immobilière Réglementée Institutionnelle / Institutionele Gereguleteerde Vastgoedvennootschap*) under Belgian law Beway, under the form of a public limited liability company (*société anonyme / naamloze vennootschap*), having its registered office at 1160 Auderghem, Chaussée de Wavre 1945. It is hereinafter called the “**Acquired Company**” or “Beway”.

Beway is governed by the BE-REIT Law and the BE-REIT Royal Decree.

Beway has been incorporated under the terms of a deed drawn up by Damien Hisette, Notary Public in Brussels, on 3 June 2015, published in the Annexes to the Belgian State Gazette on 8 June 2015, under number 15309401.

The articles of association have been amended for the last time on 28 September 2017 under the terms of a deed drawn up by Damien Hisette, Notary Public in Brussels, published in the Annexes to the Belgian State Gazette on 30 October 2017, under number 17152533.

Beway is registered with the register of legal entities (Brussels, French section) under number 0631.757.238 and with the VAT under number BE 631.757.238.

The share capital of Beway amounts to EUR 83,816,000 represented by 83,816 shares without nominal value and fully paid-up.

Its assets consist mainly in an office building, the Gateway building located at Zaventem.

The sole shareholder of Beway is the institutional BE-REIT (*Société Immobilière Réglementée Institutionnelle / Institutionele Gereguleteerde Vastgoedvennootschap*) under Belgian law Fedimmo, under the form of a public limited liability company (*société anonyme / naamloze vennootschap*) (hereinafter, “**Fedimmo**”), having its registered office at 1160 Auderghem, Chaussée de Wavre 1945 and registered with the register of legal entities (Brussels, French section) under number 0886.003.839. Befimmo holds 100% of the shares representing Fedimmo's capital.

Beway has, in accordance with article 3 of its articles of association, the following corporate purpose:

“ 3.1. The Company has as exclusive purpose:

- (a) *making real estate available to users directly or through a company in which it holds a participation in accordance with the provisions of the BE-REIT regulation, and;*
- (b) *within the limits set out by the BE-REIT regulation, hold real estate assets listed in article 2, 5°,vi to x of the BE-REIT-law.*

By real estate is meant:

- i. *real estate as defined in articles 517 and following of the Civil Code and the rights in rem over real estate, excluding real estate of a forestry, agricultural or mining nature;*
- ii. *shares with voting rights issued by real estate companies, exclusively or jointly controlled by the public real estate investment trust which controls the Company;*
- iii. *option rights on real estate ;*
- iv. *shares of public regulated real estate companies or institutional regulated real estate companies, provided, in the latter case that an exclusive or joint control is exercised on them, by the public real estate investment trust which controls the Company;*
- v. *the rights arising from contracts giving one or more goods in finance-lease to the Company or providing other similar rights of use ;*



- vi. *shares in public real estate investment companies;*
- vii. *shares in foreign real estate funds, included in the list referred to in article 260 of the Act of 19 April 2014 on alternative investment funds and their managers;*
- viii. *shares in real estate funds established in another member state of the European Economic Area not included in the list referred to in article 260 of the act of 19 April 2014 on alternative investment funds and their managers, to the extent that they are subject to supervision equivalent to the supervision that is applicable to public real estate investment companies;*
- ix. *shares issued by companies (i) with legal personality; (ii) under the law of another member state of the European Economic Area; (iii) which shares are admitted to trading on a regulated market and/or are subject to prudential supervision; (iv) whose main activity consists in acquiring or building real estate in order to make it available to users, or the direct or indirect holding of participations in certain types of entities with a similar corporate purpose and (v) that are exempt of income tax on profits in respect of the activity referred to in (iv) above subject to compliance with certain requirements, at least pertaining to the legal obligation to distribute part of their income to their shareholders (the "Real Estate Investment Trusts", or "REITs" );*
- x. *real estate certificates, referred to in article 5, §4 of the Act of 16 June 2006;*

*In the context of the making available of real estate, the Company can, in particular, exercise all activities related to the construction, rebuilding, renovation, development, acquisition, disposal, management and exploitation of real estate.*

*3.2. On an ancillary or temporary basis, the Company may make investments in securities which are not real estate within the meaning of the BE-REIT regulations. These investments will be made in compliance with the risk management policy adopted by the Company and will be diversified in a way to ensure an adequate risk diversification. The Company can also hold unallocated liquidities, in any currency, in the form of cash or term deposits or in any instrument of the monetary market that can be easily mobilised.*

*It may also trade in hedging instruments, with the exclusive aim to hedge the interest rate and exchange risk in the context of the financing and management of the real estate assets of the Company, and with the exclusion of any transaction of a speculative nature.*

*3.3 The Company may take or give one or more real estate assets in finance-lease with or without a purchase option.*

*3.4. The Company may by way of a merger or otherwise, take an interest in all businesses, undertakings or companies having a similar or related purpose and which are of a nature that favours the development of its business and, in general, to do all transactions that are directly or indirectly linked to its corporate purpose as well as all acts that are useful or necessary for the realisation of its corporate purpose."*

#### **4. Evaluation of the valuation methods used and of the proposed share exchange ratio**

Pursuant to article 26, §§ 2 and 3 of the BE-REIT Law, the issue price may not be lower than the lowest value between:

- (i) either a net value per share not older than four months before the date of filing of the draft terms of merger;
- (ii) the average of the closing prices for the last thirty calendar days preceding the date of filing of the draft terms of merger.

The aforementioned provision of the BE-REIT Law allows for an amount corresponding to the portion of the gross undistributed dividends from which the new shares may be deprived to be deducted from the minimum value referred to in that provision, provided that the board of directors specifically justifies the amount of accumulated dividends to be deducted in its special report and sets out the financial conditions of the transaction in the annual financial report.

The net assets of Befimmo, determined on the basis of IFRS accounting standards, amount to KEUR 1,443,210 on 31 December 2018. The net value per share of Befimmo on 31 December 2018 amounts to EUR 56.42 per share, on the basis of the 25,579,214 shares in circulation on 31 December 2018.

The average of the closing prices of Befimmo's share for the last thirty calendar days preceding the draft terms of merger amounts to EUR 50.36 per share.

The board of directors of Befimmo confirmed, all other things being equal, in its interim statement of 25 October 2018, the forecast of a gross dividend of EUR 3.45 per share for the 2018 financial year. A gross interim dividend of EUR 2.59 per share has been distributed in December 2018, so that the balance of the dividend for the 2018 financial year, which has yet to be approved by the ordinary general meeting of 30 April 2019 and which is scheduled to be paid at the beginning of May 2019, is estimated at EUR 0.86 per share.

The boards of directors of both Befimmo and Beway propose to issue the new shares coupon no. 38 and following attached, i.e. without coupon no. 37, which represents the balance of the dividend for the 2018 financial year.

The boards of directors of both Befimmo and Beway have opted for an agreed issue price equal to EUR 49.50 per share, being equal to the average of the closing prices for the thirty calendar days preceding the date of the draft terms of merger - EUR 0.86 per share (corresponding to the portion of the dividends).

Befimmo and Beway being affiliates, the fair value of the real estate owned by Beway has been determined by the expert in accordance with article 49, § 2 of the BE-REIT Law.

The net asset value of Beway on 31 December 2018, taking into account the fair value of the real estate asset owned by Beway determined by the expert, amounts to 131,662 KEUR.

On the basis of the 83,816 existing shares, the intrinsic value per Beway share amounts to EUR 1,570.84 per share.

Consequently, the board of directors of Befimmo and the board of directors of Beway propose to determine the exchange ratio as follows: 31,734,141 ordinary shares of the Acquiring Company for one ordinary share of the Acquired Company and a total cash payment of EUR 542.29.

The board of directors of Befimmo and the board of directors of Beway believe that, by fixing the above-mentioned share exchange ratio, they meet the rights and the interests of the shareholder of Beway (Fedimmo) and those of Befimmo's shareholders in a balanced way.

The new ordinary shares, without nominal value, will be issued in favour of Beway's sole shareholder, i.e. Fedimmo, in consideration for the shares this company holds in Beway (i.e. 83,816 Beway shares).

On the basis of the foregoing, the merger will therefore have the following consequences:

1. The share capital of Befimmo will be increased by EUR 38,643,269.06 to reach EUR 410,270,475.41 and 2,659,828 new shares will be issued in exchange for the 83,816 Beway shares held by Fedimmo.
2. The transaction will result in an increase in the number of shares by 2,659,828, with the voting rights of the shares existing as at the date hereof being reduced to 90.58 % of the entirety of the shares issued after the merger.
3. The new shares will be issued coupons no. 38 and following attached, i.e. without coupon no. 37, which represents the balance of the dividend for the 2018 financial year and will be paid as from 10 May 2019.
4. As from the 2019 financial year, each share will be entitled to 1/28,239,042 of the benefit instead of 1/25,579,214 currently.
5. The net assets of Befimmo after the merger will reach KEUR 1,574,871 and the net value per share after the merger will amount to EUR 55.77, instead of respectively KEUR 1,443,210 and EUR 56.42 prior to the transaction.



## 5. Controls performed

We have performed our controls on the draft terms of merger in accordance with the norm on mergers and scissions by the Institute of Réviseurs d'Entreprises and in accordance with the International Standards on Auditing (ISA's). We describe our controls and the results below.

We have verified the draft terms of merger to the extraordinary general meetings of Befimmo sa and Beway sa and have confirmed that the draft terms of merger include the information required by law and correspond to the information provided by the boards of Directors of the companies participating in the merger.

We have performed an audit in accordance with the International Standards on Auditing (ISA's) on the accounts established in accordance with the International Financial Reporting Standards (IFRS) at 31 December 2018 of Befimmo sa and of Beway sa.

We have recalculated the issue price in accordance with article 26, §§ 2 and 3 of the BE-REIT Law.

There are no subsequent events after the date of the draft terms of merger:

- ▶ That could influence the reasonableness of the proposed share exchange ratio
- ▶ Or that are so significant that they could have an impact on the financial situation or on the future result of the companies participating in the merger or could mislead the shareholder.



## 6. Conclusions

We have performed our controls on the draft terms of merger in accordance with the norm on mergers and scissions by the Institute of Réviseurs d'Entreprises, in accordance with article 26, §§ 2 and 3 of the BE-REIT Law and in accordance with the International Standards on Auditing (ISA's).

The controls performed allow me to make the following conclusions :

- a) The proposed share exchange ratio is relevant and reasonable taken into account the specificities of the proposed merger.
- b) We have not identified any particular valuation problems.

This report is made in accordance with article 695 of the Company Code on the proposed merger by acquisition of Beway sa by Befimmo sa, and cannot be used for any other purpose.

The value of an ordinary share of Beway sa amounts to EUR 1.570,84, the issue price of a share of Befimmo sa amounts to EUR 49,50, which leads to a share exchange ratio of 31,734141 and a total cash payment of EUR 542,29. The acquiring company Befimmo sa will issue a 2.659.828 new ordinary shares in favour of the shareholders of Beway sa.

Brussels, 8 March 2019

Ernst & Young Réviseurs d'Entreprises scrl  
Represented by



Christel Weymeersch \*  
Partner  
\* acting on behalf of a BVBA/SPRL

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