

NEW PLAN EXCEL REALTY TRUST INC

Form SC TO-T

March 08, 2007

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

## **Schedule TO**

**Tender Offer Statement under Section 14(d)(1) or 13(e)(1)**

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**of the Securities Exchange Act of 1934**

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**NEW PLAN EXCEL REALTY TRUST, INC.**

*(Name of Subject Company (Issuer))*

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**Super MergerSub Inc.**

# **Centro Properties Limited**



*(Names of Filing Persons (Offerors))*

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**Common Stock, \$.01 par value per share**

*(Title of Class of Securities)*

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*(CUSIP Number of Class of Securities)*

**Michael V. Gisser, Esq.**

**Skadden, Arps, Slate, Meagher & Flom LP**

**300 South Grand Avenue**

**Suite 3400**

**Los Angeles, California 90071**

**(213) 687-5000**

*(Name, Address and Telephone Numbers of Person Authorized*

*to Receive Notices and Communications on Behalf of Filing Persons)*

**CALCULATION OF FILING FEE**

**Transaction Valuation\***

\$3,434,692,617

**Amount of Filing Fee\***

\$105,445.06

\* Estimated solely for purposes of calculating the filing fee in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended. The amount of the filing fee is calculated by multiplying the transaction value by 0.0000307. The transaction value was determined by multiplying the offer price of \$33.15 per share by 103,610,637 shares of common stock issued and outstanding (the number of shares represented by New Plan Excel Realty Trust, Inc. in the Merger Agreement (as defined herein) to be issued and outstanding as of February 27, 2007).

Check the box if any part of the fee is offset as provided by Rule 0-11 (a) (2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: None  
Form or Registration No.: Not applicable

Filing Party: Not applicable  
Date Filed: Not applicable

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d 1.
- issuer tender offer subject to Rule 13e 4.
- going-private transaction subject to Rule 13e 3.
- amendment to Schedule 13D under Rule 13d 2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

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This Tender Offer Statement on Schedule TO (this Schedule TO ) relates to the offer by Super MergerSub Inc., a Maryland corporation (Purchaser ) and an affiliate of Centro Properties Limited (Centro ), to purchase all outstanding shares of common stock, \$.01 par value per (Shares ), of New Plan Excel Realty Trust, Inc., a Maryland corporation (New Plan ), at a price of \$33.15 per Share, net to the seller in cash, without interest thereon and less any required withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase dated March 8, 2007 (as it may be amended or supplemented from time to time, the Offer to Purchase ) and in the related Letter of Transmittal (as it may be amended or supplemented from time to time, the Letter of Transmittal and, together with the Offer to Purchase, the Offer ), which are annexed to and filed with this Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively. This Schedule TO is being filed on behalf of Purchaser and Centro. Unless otherwise indicated, references to sections in this Schedule TO are references to sections of the Offer to Purchase. The Agreement and Plan of Merger, dated as of February 27, 2007 (as it may be amended or supplemented from time to time, the Merger Agreement ), by and among New Plan, Excel Realty Partners, LP, a Delaware limited partnership, Super IntermediateCo LLC, a Maryland limited liability company and the direct parent of Purchaser, Purchaser and Super DownREIT MergerSub LLC, a Delaware limited liability company, a copy of which is attached as Exhibit (d)(1) hereto is incorporated herein by reference with respect to Items 4 through 11 of this Schedule TO.

### **Item 1. Summary Term Sheet.**

The information set forth in the Summary Term Sheet in the Offer to Purchase is incorporated herein by reference.

### **Item 2. Subject Company Information.**

- (a) The name of the subject company is New Plan Excel Realty Trust, Inc. New Plan's principal executive office is located at 420 Lexington Avenue, New York, New York 10170, and its telephone number at such principal executive office is (212) 869-3000.
- (b) This Tender Offer Statement on Schedule TO relates to Purchaser's offer to purchase all outstanding Shares. According to New Plan, as of February 27, 2007, there were 103,610,637 Shares issued and outstanding, as represented by New Plan in the Merger Agreement.
- (c) The information set forth in Section 6 Price Range of Shares; Dividends of the Offer to Purchase is incorporated herein by reference.

### **Item 3. Identity and Background of Filing Person.**

The information set forth in Section 9 Certain Information Concerning Purchaser and Centro and Schedule A to the Offer to Purchase is incorporated herein by reference.

### **Item 4. Terms of the Transaction.**

The information set forth in the Offer to Purchase is incorporated herein by reference.

### **Item 5. Past Contacts, Transactions, Negotiations and Agreements.**

The information set forth in Sections 8, 9, 10 and 11 Certain Information Concerning New Plan, Certain Information Concerning Purchaser and Centro, Background of the Offer; Contacts with New Plan and Purpose of the Offer and Plans for New Plan; Merger Agreement of the Offer to Purchase is incorporated herein by reference.

### **Item 6. Purposes of the Transaction and Plans or Proposals.**

The information set forth in Sections 6, 7, 10, 11 and 14 Price Range of Shares; Dividends, Possible Effects of the Offer on the Market for the Shares; New York Stock Exchange Listing; Exchange Act Registration

and Margin Regulations, Background of the Offer; Contacts with New Plan, Purpose of the Offer and Plans for New Plan; Merger Agreement and Dividends and Distributions of the Offer to Purchase is incorporated herein by reference.

**Item 7. Source and Amount of Funds or Other Consideration.**

The information set forth in Section 12 Source and Amount of Funds of the Offer to Purchase is incorporated herein by reference.

**Item 8. Interest in Securities of the Subject Company.**

The information set forth in Sections 8, 9, 10 and 11 Certain Information Concerning New Plan, Certain Information Concerning Purchaser and Centro, Background of the Offer; Contacts with New Plan and Purpose of the Offer and Plans for New Plan; Merger Agreement of the Offer to Purchase is incorporated herein by reference.

**Item 9. Persons/Assets, Retained, Employed, Compensated or Used.**

The information set forth in Sections 10, 11 and 16 Background of the Offer; Contacts with New Plan, Purpose of the Offer and Plans for New Plan; Merger Agreement and Fees and Expenses of the Offer to Purchase is incorporated herein by reference.

**Item 10. Financial Statements.**

Not applicable.

**Item 11. Additional Information.**

(a)(1) The information set forth in Sections 9, 10, 11 and 13 Certain Information Concerning Purchaser and Centro, Background of the Offer; Contacts with New Plan, Purpose of the Offer and Plans for New Plan; Merger Agreement and Conditions of the Offer of the Offer to Purchase is incorporated herein by reference.

(a)(2),(3) The information set forth in Sections 11, 13 and 15 Purpose of the Offer and Plans for New Plan; Merger Agreement, Conditions of the Offer and Certain Legal Matters of the Offer to Purchase is incorporated herein by reference.

(a)(4) The information set forth in Section 7 Possible Effects of the Offer on the Market for the Shares; New York Stock Exchange Listing; Exchange Act Registration and Margin Regulations of the Offer to Purchase is incorporated herein by reference.

(a)(5) Not applicable.

**Item 12. Exhibits.**

- (a)(1)(A) Offer to Purchase, dated March 8, 2007
- (a)(1)(B) Form of Letter of Transmittal
- (a)(1)(C) Form of Notice of Guaranteed Delivery
- (a)(1)(D) Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees
- (a)(1)(E) Form of Letter to Clients for Use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees
- (a)(1)(F) Notice of Merger under Maryland Law
- (a)(1)(G) Internal Revenue Service Form W 9 (Request for Taxpayer Identification Number and Certification), including instructions for completing the form



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- (a)(1)(H) Text of press release issued by Centro Properties Group and New Plan Excel Realty Trust, Inc., dated February 27, 2007 (incorporated by reference to Schedule TO filed by Centro Properties Limited and Super MergerSub Inc. with the Securities and Exchange Commission on February 27, 2007)
- (a)(1)(I) Form of summary advertisement, published March 8, 2007, in the Wall Street Journal
- (a)(2) Not applicable
- (a)(3) Not applicable
- (a)(4) Not applicable
- (a)(5) Not applicable
- (b)(1) Commitment Letter, dated as of February 27, 2007, by and among J.P. Morgan Securities Inc., JPMorgan Chase Bank, N.A., CPT Manager Limited and Centro Properties Limited
- (b)(2) Co-obligor Agreement, dated February 27, 2007, by and among Centro Properties Limited, CPT Manager Limited and New Plan Excel Realty Trust, Inc.
- (d)(1) Agreement and Plan of Merger, dated as of February 27, 2007, by and among New Plan Excel Realty Trust, Inc., Excel Realty Partners, LP, Super IntermediateCo LLC, Super MergerSub Inc. and Super DownREIT MergerSub LLC
- (d)(2) Confidentiality Agreement, dated as of January 30, 2007, by and between Centro Property Trust and New Plan Excel Realty Trust, Inc.
- (g) Not applicable
- (h) Not applicable

**Item 13. Information Required by Schedule 13E-3.**

Not applicable.

**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

**Super MergerSub Inc.**

By: /s/ Andrew Scott  
Name: Andrew Scott  
Title: Chief Executive Officer

**Centro Properties Limited**

By: /s/ Andrew Scott  
Name: Andrew Scott  
Title: Chief Executive Officer

Dated: March 8, 2007

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**EXHIBIT INDEX**

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