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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 018176

In the matter between:

MMI Strategic Investments (Pty) Ltd	Acquiring Firm
And	
Guardrisk Group (Pty) Ltd	Target Firm

Panel	:	Anton Roskam (Presiding Member) Medi Mokuena (Tribunal Member) Merle Holden (Tribunal Member)
Heard on	:	12 February 2014
Order issued on	:	12 February 2014
Reasons issued on	:	12 March 2014

Reasons for Decision

Approval

1. On 12 February 2014 the Competition Tribunal (the "Tribunal") unconditionally approved an acquisition by MMI Strategic Investments (Pty) Ltd ("MMI Strategic Investments") of Guardrisk Group (Pty) Ltd ("Guardrisk").

2. The reasons for the approval of the proposed transaction follow.

The Parties and their activities

3. The primary acquiring firm is MMI Strategic Investments, a private company registered in terms of the laws of the Republic of South Africa.

MMI Strategic Investments is controlled by MMI Holdings Ltd ("MMI Holdings"), a public company incorporated in terms of the laws of the Republic of South Africa. MMI Holdings is listed on the Johannesburg Securities Exchange Ltd ("JSE"), and is not controlled by any other firm. The shareholders that hold 5% or more of the issued share capital of MMI Holdings are: RMI Holdings Ltd (24.5%), Government Employees Pension Fund (9.4%), Kagiso Tiso Holdings (Pty) Ltd (7.1%), Liberty Life Association of Africa Ltd (3.1%) and FirstRand Empowerment Trust (3.0%). MMI Strategic Investments controls Strategic Real Estate Managers (Pty) Ltd. MMI Holdings and its subsidiaries are herein after referred to as the MMI Group.

4. The MMI Group develops, markets and distributes a variety of products such as long and short-term insurance, asset management, savings, investments, healthcare administration and employee benefits.

5. The primary target firm is Guardrisk, a private company incorporated in terms of the company laws of the Republic South Africa. Guardrisk is controlled by Alexander Forbes Acquisition (Pty) Ltd ("AF Acquisition"), a wholly-owned subsidiary of Alexander Forbes Funding (Pty) Ltd ("AF Funding"). AF Funding is in turn ultimately controlled by Alexander Forbes Equity Holdings (Pty) Ltd ("AF Holdings"). AF Holdings is controlled by a consortium of firms and the five largest members of the consortium are: Ontario Teachers' Pension Plan Board (16.5%), Actis AF Holdings Ltd (12.2%), Caisse de depot at placement du Quebec (9.1%), Ethos Capital V GP (Pty) Ltd (8.6%) and HarbourVest International Private Equity Partners (3.7%).

6. Guardrisk has the following three South Africa business units: (i) Guardrisk Insurance offering short-term ART insurance specifically through first party cells and contingency policies as well as third party cells[1] (ii) Guardrisk Life

[1] According to the parties, ART insurance involves the use of techniques that permit entities to take a more direct role in their insurance and reinsurance protection. One type of ART insurance product involves the use of "cell captives", which are insurance vehicles created by

which provides long-term ART insurance products for first party cells to corporate and retirements funds to cover post-retirement healthcare liabilities and self-insure employee risk benefits and (iii) Guardrisk Allied Products and Services which is a specialist short-term underwriting manager.

Proposed transaction and rationale

7. MMI Strategic Investments intends to acquire the entire issued share capital of Guardrisk. Post-merger, MMI Strategic Investments will have sole control over Guardrisk.

8. MMI Holdings submitted that this transaction presents an opportunity to enhance its offering to corporate clients as well as an invaluable entry into the short-term commercial insurance market.

9. Guardrisk submitted that this transaction would enhance its continued commitment to grow its core employee benefits, investment and risk businesses in order to facilitate the strategic objective of securing its clients' well-being.

Competition Analysis

10. The Commission identified horizontal and vertical overlaps in the actitivities of the merging parties.

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insurance companies (referred to as the "cell provider" or "cell promoter"), whereby the cell provider's insurance licence is effectively extended for use by another organisation (referred to as the "cell owner" or client") for the insurance of the cell owner's own liabilities (referred to as "first party cell") or the liabilities and/or lives of the cell owner's customers or members (referred to as a "third party" cell).

Horizontal Analysis

11. The horizontal overlaps identified by the Commission are in respect of the following broad markets: (i) long-term insurance products, (ii) short-term insurance products and (iii) long-term ART insurance products. In relation to long and short-term insurance products, the Commission further defined the markets more narrowly by differentiating between individual and corporate customer segments as well as property, transportation, motor and liability categories respectively. The relevant geographic market was defined by the Commission as being national. The Commission found that the merging parties' post-merger market shares will be as follows:

    (i) The broad market for long term insurance – 14.36% and the narrow markets for long-term insurance to individuals and corporate – 15.13% and 13.6% respectively.
    (ii) The market for short-term insurance products – 6.6% and the narrow markets for short-term insurance, i.e. property, transportation, motor and liability – between 3.3% and 13.2%.
    (iii) The market for ART insurance – 23.96%.

12. The Commission found that the insurance market is highly competitive and that post-merger the merged entity will continue to be constrained by several other competitors such as Santam, Old Mutual, Liberty Group, Discovery Life, Coronation Life, Investec, Allan Gray Life, ABSA Life, Regent and others.

Vertical Analysis

13. The Commission identified the following two vertical overlaps in the activities of the merging parties: (i) the MMI Group currently sources specialized insurance in the form of mine rehabilitation insurance[2]

[2] According to the merging parties, mine rehabilitation insurance is a mechanism used by mining firms to meet the requirements of the Mineral and Petroleum Resources Department

products from Guardrisk and (ii) Some of Guardrisk's long-term insurance cell clients use the MMI Group as a manager for some of their cell assets (asset management).

Mine rehabilitation insurance products

14. In assessing the likelihood of input foreclosure, the Commission found that insurance firms such Guardrisk compete with large commercial banks in issuing mine rehabilitation insurance products (guarantees). Further, even though Guardrisk is one of the two largest insurers of mine rehabilitation insurance products, the Commission found that insurance firms account for an estimated 14.14% while banks account for an estimated 85.56% of the entire market for the issuance of mine rehabilitation guarantees. Furthermore, the total revenue generated by Guardrisk from providing mine rehabilitation insurance products to clients introduced to it by the MMI Group during 2013 was less than 10%, meaning that Guardrisk's other customers accounted for the majority of its total revenue. In relation to customer foreclosure, the Commission found that the MMI Group has not sourced mine rehabilitation insurance products for its clients from any insurer other than Guardrisk. The Commission therefore concluded that the proposed transaction is unlikely to raise any foreclosure concerns in this market.

Asset Management Services

15. In this market and in relation to input foreclosure the Commission found that the MMI Group's asset management business account for approximately less than 5% of the total asset management market and competes with other firms such as ABSA, PSG, Investment Solutions, Prudential, Sanlam and others. Further, Guardrisk's cell clients are the

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Act to provide assurance of available financial resources for the rehabilitation of mining sites. Mine rehabilitation insurance is regulated by the Department of Mineral Resources together with the Financial Services Board in order to ensure that products provided by insurance companies are done in a sound manner.

ones who elect their own preferred asset manager and Guardrisk's fees paid to the MMI Group in relation to Guardrisk's long-term cell clients are insignificant as compared to the total revenue generated by the MMI Group in its asset management business. In relation to customer foreclosure, the Commission found that the Guardrisk's long-term insurance cell business under the management of the MMI Group accounts for less than 10% of its total asset value. The Commission therefore concluded that the proposed transaction is unlikely to raise any foreclosure concerns in this market.

Public interest

16. The merging parties confirmed that the proposed transaction will have no adverse effect on employment and will not result in any retrenchments in South Africa.[3] The proposed transaction raises no other public interest concerns.

Conclusion

17. For the reasons mentioned above, we approve the proposed transaction unconditionally.

MMokuena

Mrs. Medi Mokuena

12 March 2014

Date

Mr. Anton Roskam and Professor Merle Holden concurring

Tribunal researcher: Ipeleng Selaledi

For the merging parties: Desmond Rudman of Webber Wentzel

For the Commission: Reabetswe Molotsi

[3] See merger record, page 7. Also see paragraph 7.1 of the Commission's merger report.