IN THE COMPETITION TRIBUNAL **CASE NO. 4/LM/JAN08**

In the large merger between:

HomePlan (Pty) Ltd Acquiring firm

And

The Rights, title and interest in and assets of the Alexander

Forbes HomePlan Joint Venture between Alexander Forbes

And ABSA Bank Ltd Target firm

Panel : Y Carrim (Presiding Member), M Mokuena (Tribunal Member) and U Bhoola (Tribunal Member)

Heard on : 5 March 2008

Order issued on : 5 March 2008

Reasons issued on : 6 March 2008

REASONS

APPROVAL

[1] On 5 March 2008 the Tribunal issued a merger clearance certificate unconditionally approving the merger between the abovementioned parties.

PARTIES TO THE TRANSACTION

[2] The primary acquiring firm is HomePlan (Pty) Ltd ("HomePlan Company"), a newly incorporated company which is a wholly owned subsidiary of Alexander Forbes Financial Services Holdings (Pty) Ltd ("AFFS"). AFFS is a wholly owned subsidiary of Alexander Forbes Ltd ("AFL"). Other holding companies of HomePlan Company are Alexander Forbes Acquisition (Pty) Ltd ("AFAq"), Alexander Forbes Funding (Pty) Ltd ("AFFund"), Alexander Forbes PIK Funding (Proprietary) Limited (AFPIK"), Alexander Forbes Holdco (Proprietary) Limited ("AFHold"), and Alexander Forbes Equity Holdings (Proprietary) Limited ("AFEH").[1] All of these holding companies control HomePlan

[1] See schedules to form CC4 (1)of the Commission's merger record, pg. 10

Company, directly or indirectly, and do not conduct any business activity except through AFL.

[3] The primary target firm consists of all rights, title and interest in and assets of the HomePlan Joint Venture between ABSA Bank Limited ("ABSA"), and AFFS.[2] ABSA and AFFS each own 50% of the joint venture.

ACTIVITIES OF THE PARTIES

[4] AFL is an international provider of financial risk services, which offers multi-management investment, employee benefit consulting, retirement fund administration, corporate insurance broking, cell captive insurance and personal lines insurance.[3] AFL has activities in a broad spectrum of services including risk and insurance services, risk services, personal services, administration, reinsurance solutions, compensation technologies, financial services, healthcare, etc.

[5] The joint venture operates as a partnership and provides home loan facilities to clients, secured by way of pension fund. This is a non mortgage lending product which is secured against an individual's pension fund benefit, and usually provides an alternative way of obtaining housing finance for employees that would normally not qualify for a mortgage bond. This product is regulated in terms of the Pension Fund Act.[4]

THE TRANSACTION AND ITS RATIONALE

[6] HomePlan Company intends to acquire the rights, title and interest to and assets in the HomePlan Joint Venture. The effect of this transaction is that, AFFS, through HomePlan Company, will increase its shareholding in HomePlan Joint Venture from 50% to 100%, moving from joint to sole control, thus resulting in the dissolution of the joint venture.[5] Post merger, HomePlan Company will continue to provide the services which were provided for under the Joint Venture, and ABSA will also continue operating in the market for the provision of pension fund-backed home loans, although not through HomePlan.

[8] The rationale for the proposed transaction for AFL is to grow HomePlan by obtaining funding from banks other than ABSA, at competitive rates. Unitl now all the funding for the joint venture products was provided by ABSA which has been the main

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[2] ABSA contributes skills and expertise in order to manage and administer funding requirements of HomePlan, and AFFS contributes skills and expertise in order to manage the marketing activities of HomePlan, and administration of the day to day business activities of HomePlan

[3] For details of AFL's main activities; see pgs. 25-31 of the merger record

[4] Act 24 of 1956

[5] AFFS, after the dissolution of the Joint Venture, will transfer the entire business which was the subject of the Joint Venture to HomePlan Company

funder all along. For ABSA, the rationale is to dispose of all its shares in HomePlan as it no longer considers it viable, and does not want to be exposed to the risk associated with the new National Credit Act in a joint venture where it is not directly controlling the daily operational activities associated with the loan book. ABSA also has its own pension backed lending operation, which it intends to develop, in order to compete with HomePlan.

RELEVANT PRODUCT MARKET

[9] The Commission found that there is horizontal overlap between the merging parties as a result of FFS having prior shareholding in the HomePlan Joint Venture. However the merging parties found that overlaps between the activities of the merging parties exist in the following:

1. Firstly in the provision of home loans in general (i.e. the broad market definition); and
2. Secondly the provision of pension backed home loans (i.e. the narrow market definition).

[10] For the purposes of competition evaluation in this transaction, we shall consider the narrow market definition as relevant, and since the services therein are provided by the parties throughout South Africa, we consider the geographic market to be national.

COMPETITION EVALUATION

[11] The estimated market shares for the provision of pension fund backed home loans are as follows[6]:

Competitors	Estimated market shares
ABSA	10%
Standard Bank SA	30%
Nedbank	4%
First Rand	16%
HomePlan	20%
Other (including Glenrand 4% and NBC 13%)	20%
Total	100%

[12] However this transaction which involves a change from joint to sole control does not change the competitive structure of the market as post merger, Homeplan's market share will remain the same.

[6] The figures are based on the merging parties' best estimates

PUBLIC INTEREST

[13] The proposed transaction will have no negative effect on employment. There are no other significant public interest concerns.

CONCLUSION

[14] The proposed merger is unlikely to substantially prevent or lessen competition. Accordingly the merger is approved unconditionally.

________________	6 March 2008
Y Carrim	Date
Tribunal Member	

M Mokuena and U Bhoola **concur** in the judgment of Y Carrim

Tribunal Researcher: L Xaba

For the merging parties	:	Edward Nathan Sonnebergs
For the Commission	:	M Mohlala
		(Mergers and Acquisitions)