COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 75/LM/Nov09

In the matter between:

ABSA Bank Limited	Acquiring Firm
And	
Sanlam Home Loans (Pty) Ltd	Target Firm

Panel	:	Norman Manoim (Presiding Member), Andreas Wessels (Tribunal Member) and Andiswa Ndoni (Tribunal Member)
Heard on	:	20 January 2010
Order Issued	:	20 January 2010
Reasons Issued:		18 March 2010

Reasons for Decision

Approval

[1] On 20 January 2010, the Competition Tribunal ("Tribunal") unconditionally approved the merger between ABSA Bank Limited and Sanlam Home Loans (Pty) Ltd. The reasons for approving the transaction follow.

Parties

[2] The primary acquiring firm is ABSA Bank Limited ("Absa"), a company duly registered in terms of the company laws of South Africa. Absa is a subsidiary of Absa Group Limited ("Absa Group"), a public company listed on the Johannesburg Securities Exchange. Absa Group is ultimately controlled by Barclays Plc, a public company listed on the London Stock Exchange, the Tokyo Stock Exchange, and the New York Stock Exchange.

[3] The primary target firm is Sanlam Home Loans (Pty) Ltd ("SHL"), a company registered in terms of the company laws of South Africa. Pre-merger SHL is jointly controlled by Absa (with a 50% shareholding) and Sanlam Life Insurance Limited ("Sanlam") (with a 50% shareholding). Absa Group and Sanlam each controls in excess of 40 subsidiaries.

[4] The SHL business model involves the securitisation of home loans originated through the business as a means to secure medium- to long term funding and minimise the cost of funding. The merging parties submitted that as part of a securitisation structure, SHL owns 100% of the issued preference shares in Sanlam Home Loans 101 (Pty) Ltd ("SHL 101") and Sanlam Home Loans 103 ("SHL 103"). The ordinary share capital of these two entities is held by two trusts, which operate for the benefit of two separate special purpose vehicles. This structure ensures that SHL 101 and SHL 103 are bankruptcy/insolvency remote. The merging parties further submitted that the financials of SHL 101 and SHL 103 are consolidated with those of SHL for accounting purposes since SHL is deemed to control SHL 101 and SHL 103.

Proposed transaction

[5] In terms of the proposed transaction, Absa will acquire the remaining 50% shareholding in SHL from Sanlam that it does not already own. The proposed acquisition thus results in a change from joint control of SHL to sole control by Absa. At the conclusion of the proposed transaction, SHL will be wholly owned by Absa.

Rationale for transaction

[6] The merging parties submitted that they wish to terminate the existing joint venture as SHL is unlikely to deliver sufficient returns in the future due to (i) the inability of SHL to deliver a price competitive value proposition through securitisation in current market conditions, given the rise in finance costs with regard to securitisation products; and (ii) Absa's unwillingness to deliver a differentiated product because of the absence of economies of scale in SHL.[1]

[1] See Transcript pp 3-4.

Parties' overlapping activities

[7] The Absa Group offers a variety of services that include retail banking; commercial banking; investment banking; international operations; financial services; advisory services; wealth management; and other services. Of relevance to the proposed transaction under consideration is Absa's provision of residential home loans by means of the Absa Home Loans business unit within the Secured Lending Cluster of its Retail Bank division.

[8] SHL is active in the provision of home loans to retail customers.

Relevant market

[9] The Commission submits that the relevant product market is the market for the provision of home loans and that the relevant geographic market is national given the nature of the products supplied and the fact that market participants adopt a national pricing strategy. We shall assess the proposed transaction on this basis.

Competition analysis

[10] **Table 1** below provides the market shares of the participants in a national market for the provision of home loans.

Table 1: National market shares for the provision of home loans

Company	Market share (%)
Absa	**31**
Standard Bank	30
First National Bank	18
Nedbank	17
Investec	4
SHL	**<1**
Others	<1

Source: Merging parties' estimates[2]

[11] As shown in the **Table 1** above, the proposed merger will result in a market share accretion in a national home loans market of less than 1%. The merged entity will have a post-merger market share of approximately 32% in this

[2] The parties submitted that these market share estimates are based on data from the MAY 2009 BA900 reports filed with the SARB as supplemented by their estimates of securitised assets as reported on the Banking Association's website and the latest financials of SHL.

market. The proposed merger does not result in a substantial prevention or lessening of competition as the merged entity continues to face competition from credible competitors in the home loans market, including Standard Bank (with an estimated market share of approximately 30%); First National Bank (18%); Nedbank (17%); and Investec (4%).

Public interest

[12] No public interest issues arise from the proposed transaction.

Conclusion

[13] The proposed transaction is approved unconditionally as it does not result in a substantial prevention or lessening of competition in any relevant market. In addition, there are no public interest issues that arise from the proposed transaction.

____________________	**18 March 2010**
Andreas Wessels	**DATE**
Tribunal Member	

Norman Manoim and Andiswa Ndoni concurring.

Tribunal Researcher : Romeo Kariga

For the merging parties: ABSA Group, Legal Counsel

For the Commission : Kwena Mahlakoana (Mergers and Acquisitions Division)