



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 93/LM/DEC09

In the matter between:

Bank of America Corporation
and
Barclays Bank Plc

Acquiring Firm

And

Dywidag Systems International (Pty) Ltd

Target Firm

Panel	:	N Manoim	(Presiding Member),
		Y Carrim	(Tribunal Member)
		and M Mokuena	(Tribunal Member)
Heard on	:	17/02/2010	
Order issued on	:	18/02/2010	
Reasons issued on	:	25/02/2010	

Reasons for Decision

Approval

[1] On 18 February 2010 the Competition Tribunal approved the merger between Bank of America Corporation ("Bank of America"), Barclays Bank Plc ("Barclays") and Dywidag Systems International (Pty) Ltd ("DSI SA"). The reasons follow below.

The Transaction

[2] In terms of the proposed transaction, Bank of America and Barclays (via their respective subsidiaries) will each acquire an indirect shareholding in the DSI Group. The transaction will result in Bank of America and Barclays acquiring joint control over the DSI Group.

[3] The primary acquiring firms are Bank of America Corporation and Barclays Bank Plc.

[4] The target firm is DSI International Luxembourg S.A.R.L (“DSI International”) (and all companies controlled by it – referred to as the “DSI Group” for ease of reference) - whose ultimate principal shareholder is Tension Holdings S.A. (incorporated in the Grand Duchy of Luxembourg) . Tension Holdings S.A. is in turn controlled by CVC European Equity Partners Fund IV (“CVC”) and its affiliates.

[5] DSI International has joint control of the following firms in South Africa:

- Dywidag Systems International (Pty) Ltd in which it holds a 50% interest. The remaining 50% shareholding in the DSI SA is held by Capital African Steel (Pty) Ltd.
- DSI SA holds an 80% shareholding in FSI Mandrik Strata Support (Pty) Ltd.¹

[6] The transaction can be broken down as follows, post transaction Barclays will hold approximately 46% through two of its subsidiaries and Bank of America will have approximately 43% through one of its subsidiaries, CVC will have a shareholding of approximately 5% and management a combined shareholding of approximately 5%. These will be held in a company called Brandlen Finance S.A., a newly incorporated Luxembourg entity, which will have a company called Bolt 2 S.A. as a wholly owned subsidiary. DSI International Luxembourg will, in turn, be a wholly owned subsidiary of Bolt 2 SA.

The parties and their activities

[7] Although the Bank of America itself has no physical presence in South Africa, its subsidiary Merrill Lynch, is involved in the local investment banking market. Barclays Bank is a global financial services provider engaged in retail and commercial banking. It conducts these services in South Africa through its relationship, as majority shareholder, with ABSA Bank. DSI produces and supplies high quality products for the mining and construction industry. DSI SA’s activities are confined to the production, sale, and instillation of a variety of products which are used

¹ See CC4(2) of DSI International Luxembourg S.A.R.L. specifically items 2 and 4 of page 64.

in underground mining such as rock and roof bolts, expansion shells, friction bolts and rock bolt accessories.

The relevant market and the impact on competition

[8] The relevant market is the manufacture and supply of mining products and the relevant geographic market is South Africa. The acquiring firms are not active in this market.

[9] There is thus no overlap in the products and services supplied by the merging parties.

CONCLUSION

[10] There are no significant public interest issues and we accordingly approve the transaction.

N Manoim

24/02/2010
DATE

Concurring: Y Carrim and M Mokuena

Tribunal Researcher: Thandi Lamprecht

For the merging parties: Nortons Inc

For the Commission: Nazeera Ramroop