



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM117Sep22

In the matter between:

Super Group Holdings (Pty) Ltd

Primary Acquiring Firm

And

RSC Consulting Services (Pty) Ltd and Clean Tech
360 (Pty) Ltd

Primary Target Firms

Panel : I Valodia (Presiding Member)
: AW Wessels (Tribunal Panel Member)
: A Ndoni (Tribunal Panel Member)
Heard on : 21 December 2022
Decided on : 22 December 2022

Order

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b) of the Competition Act, 1998 ("the Act") the Competition Tribunal orders that-

1. the merger between the abovementioned parties be approved in terms of section 16(2)(b) of the Act subject to the conditions attached hereto as Annexure A; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal rule 35(5)(a).

Signed by: Imraan Valodia
Signed at: 2022-12-22 09:26:19 +02:00
Reason: Witnessing Imraan Valodia

Imraan Valodia

**Presiding Member
Prof. Imraan Valodia**

22 December 2022

Date

Concurring: Mr Andreas Wessels and Ms Andiswa Ndoni



competitiontribunal
SOUTH AFRICA

Merger Clearance Certificate

Date : 22 December 2022

To : Fluxmans Attorneys

Notice CT 10

About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 20 business days.

Contacting the Tribunal

The Competition Tribunal
Private Bag X24
Sunnyside
Pretoria 0132
Republic of South Africa
tel: 27 12 394 3300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

Case Number: LM117Sep22

Super Group Holdings (Pty) Ltd And RSC Consulting Services (Pty) Ltd and Clean Tech 360 (Pty) Ltd

You applied to the Competition Commission on **19 September 2022** for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act, or was the subject of a Request for consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

- no conditions.
- the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- b) the approval was obtained by deceit.
- c) a firm concerned has breached an obligation attached to this approval.

The Registrar, Competition Tribunal

Tebogo Mphahlele

ANNEXURE A

SUPER GROUP HOLDINGS PROPRIETARY LIMITED
and
RSC CONSULTING SERVICES PROPRIETARY LIMITED AND CLEAN TECH 360
PROPRIETARY LIMITED

Case Number: LM117Sep22

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them below and cognate expressions bear a corresponding meaning:

- 1.1. **“Acquiring Firm”** means Super Group Holdings (Pty) Ltd;
- 1.2. **“Approval Date”** means the date referred to in the Tribunal’s merger clearance certificate (Form CT 10) in respect of the Merger;
- 1.3. **“B-BBEE”** means Broad-Based Black Economic Empowerment as defined in the B-BBEE Act;
- 1.4. **“B-BBEE Act”** means the Broad-Based Black Economic Empowerment Act, 53 of 2003, as amended, and the Codes of Good Practice 2013, as amended;
- 1.5. **“Commission”** means the Competition Commission of South Africa;
- 1.6. **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.7. **“Competition Act”** means the Competition Act 89 of 1998, as amended;

- 1.8. **“Conditions”** means these conditions, and "Condition" means, as the context requires, any one of them;
- 1.9. **“Day”** means any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;
- 1.10. **“DTIC”** means the Department of Trade, Industry and Competition of South Africa;
- 1.11. **“Employee”** has the same meaning as in the Labour Relations Act 66 of 1995, as amended;
- 1.12. **“ESOP”** means an employee share ownership plan to be implemented through an employee trust, which will acquire a shareholding of [REDACTED] in the Acquiring Firm and in terms of which Qualifying Employees shall be beneficiaries thereunder;
- 1.13. **“Implementation Date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 1.14. **“Merged Entity”** means the Target Firms subject to control of the Acquiring Firm following the Implementation Date;
- 1.15. **“Merging Parties”** means the Acquiring Firm and the Target Firms;
- 1.16. **“Merger”** means the acquisition of control by the Acquiring Firm over the Target Firms;
- 1.17. **“Qualifying Employees”** means the employees who meet the criteria to participate in the ESOP. The criteria requires the Qualifying Employees to be: (i) black employees as defined by the B-BBEE Act; and (ii) Employees who have at least [REDACTED] of continuous service with the Target Firms and/or the Acquiring Firm;
- 1.18. **“Target Firms”** means RSC Consulting Services (Pty) Ltd and Clean Tech 360 (Pty) Ltd; and
- 1.19. **“Tribunal Rules”** means the Rules for the Conduct of Proceedings in the

Competition Tribunal.

CONDITIONS

2. ESOP

- 2.1. The Acquiring Firm will announce its new ESOP in March 2023, the SG Kganya Employee scheme ("SG Kganya"). The Trust will hold an effective [REDACTED] shareholding in the Acquiring Firm on behalf of the Qualifying Employees.
- 2.2. The ESOP shall be held at no cost to its beneficiaries.
- 2.3. The purpose of the scheme is to enable the participating companies to reward the Qualifying Employees with an opportunity to jointly grow the profitability of the participating employer companies and share in the growth and prosperity thereby promoting an alignment of interests between the Qualifying Employees and employer companies.
- 2.4. Qualifying Employees will be black employees as defined by the B-BBEE Act, who are permanently employed and have accepted an offer to become beneficiaries of the ESOP. The SG Kganya beneficiaries must have uninterrupted or continuous employment service with the Group of at least [REDACTED] years in order to become beneficiaries.
- 2.5. The ESOP will own shares of the Acquiring Firm through SG Kganya and beneficiaries will share equal distributions from the profitability of participating Super Group South African subsidiaries/business units.
- 2.6. Dividends from the Acquiring Firm will be paid to the Trust and distributed to beneficiaries annually. The Acquiring Firm's Board will declare an annual dividend that will be distributed equally to all the participating employees.
- 2.7. The Trust in turn will make dividend payments to beneficiaries after deducting any employees' tax that might be payable. The dividends will be paid directly into the same bank account used by the beneficiary for salary payments. SG Kganya will be an indefinite or evergreen scheme. Qualifying

Employees will continue to benefit from the dividends as long as they are employees of a company participating in the ESOP.

- 2.8. The Acquiring Firm shall incorporate all Qualifying Employees of the Target Firms into the new ESOP within 18 months after the Implementation Date.

3. MONITORING OF COMPLIANCE

- 3.1. The Merged Entity shall inform the Commission in writing of the Implementation Date within five (5) Days of its occurrence.
- 3.2. The Merged Entity shall inform the Commission of the commencement date of the ESOP within 5 (five) Days of its occurrence.
- 3.3. The Merged Entity shall, after every month following the approval of the Merger, provide to the Commission a report detailing the steps taken to implement the ESOP and the progress made. The Merged Entity shall continue to report monthly until the ESOP is implemented.
- 3.4. The report contemplated in clause 3.3 shall be accompanied by an affidavit, attested to by a senior official of the Merged Entity, confirming the accuracy of the report.
- 3.5. The Commission may request any additional information from the Merging Parties, which the Commission from time to time may deem necessary for purposes of monitoring the extent of compliance with these Conditions.

4. APPARENT BREACH

- 4.1. An apparent breach by the Merging Parties of any of the Conditions shall be dealt with in terms of Rule 39 of the Commission Rules and Rule 37 of the Tribunal Rules.

5. VARIATION

- 5.1. The Merging Parties and/or the Commission may at any time, and on good cause shown, apply to the Tribunal for any of the Conditions to be waived, relaxed, modified and/or substituted.

6. GENERAL

6.1. All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and Ministry@thedtic.gov.za.