

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM020May21

In the matter between:

The Government Employee Pension Fund
(represented by the Public Investment Corporation
SOC Ltd)

Primary Acquiring Firm

And

The Leasehold Rights (and obligations) in respect of
the immovable property situated at Erf 4525 Jukskei
View Extension 89 Township and letting enterprise
that is being conducted in respect of the building(s)
erected thereon

Primary Target Firm

Panel: M Mazwai (Presiding Member)
F Tregenna (Tribunal Panel Member)
T Vilakazi (Tribunal Panel Member)

Heard on: 23 June 2021
Order Issued on: 23 June 2021

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)(a) of the Act; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 35(5)(a).



Presiding Member
Ms Mondo Mazwai

23 June 2021

Date

Concurring: Prof. Fiona Tregenna and Dr. Thando Vilakazi



competitiontribunal
SOUTH AFRICA

Merger Clearance Certificate

Date : 23 June 2021

To : ENSafrica 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
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Case Number: LM020May21

The Government Employee Pension Fund (Represented by the Public Investment Corporation SOC Ltd) And The Leasehold Right (And Obligations) in Respect of the Immovable Property Situated at the ERF 4525 Jukskei View Extension 89 Township and Letting Enterprise That is Being Conducted in Respect of the Building(s) Erected Thereon

You applied to the Competition Commission on **04 May 2021** 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

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

The Registrar, Competition Tribunal

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case no: LM020May21

The Government Employee Pension Fund (represented by the Public Investment Corporation SOC Limited) (Primary Acquiring Firm)

and

The Leasehold Rights (and obligations) in respect of the immovable property situated at Erf 4525 Jukskei View Extension 89 Township and the letting enterprise that is being conducted in respect of the building(s) erected thereon (Primary Target Firm)

Heard on: 23 June 2021

Order Issued on: 23 June 2021

REASONS FOR DECISION

- [1] On 23 June 2021, the Competition Tribunal unconditionally approved a large merger whereby the Government Employee Pension Fund (represented by the Public Investment Corporation SOC Limited) (the “GEPF”) intends to acquire the Leasehold Rights (and obligations) in respect of the immovable property situated at Erf 4525 Jukskei View Extension 89 Township (the “Deloitte Property”) and letting enterprise that is being conducted in respect of the building(s) erected thereon (the “Deloitte Property Business”), as a going concern.¹
- [2] The GEPF is not controlled by any firm, but is managed by the Public Investment Corporation SOC Limited (the “PIC”), which is wholly owned by the South African Government. The GEPF controls a number of firms, none of which are relevant to this transaction.²
- [3] Pre-merger, the Target Firm is jointly controlled by Dale Creek Investments (Pty) Ltd and Attacq Waterfall Investment Company (Pty) Ltd, and does not control any firm.
- [4] The GEPF Group is a ‘defined-benefit fund’ which manages pensions and related benefits on behalf of government employees in South Africa, investing in a variety of asset classes and businesses within various industries. Of relevance, is the fact that the GEPF Group owns office properties or has interests in firms that are active in the property sector, namely through the ownership and/or provision of rentable office space in the Gauteng province.

¹ Collectively referred to as the Target Firm.

² The GEPF and all its subsidiaries will be collectively referred to as the “GEPF Group”.

- [5] The Deloitte Property has a gross lettable area of 44,265m² that is classified as Grade P (premium) office space, and which is in terms of the Deloitte Lease, currently being leased exclusively to Deloitte for a period of 12 years, ending on 31 March 2032.³
- [6] In its competition assessment, the Competition Commission (the “Commission”) found that there are no horizontal overlaps as the GEPF Group does not own or have interests in firms that own Grade P office space, that could be considered a competitor of the Target Firm, and the Deloitte Lease establishes Deloitte as the sole tenant in the Deloitte Building. In addition, the Commission found no vertical overlaps in the activities of the merging parties as none provide a product or service that could be deemed as an input in the business activities of the other. The Commission concluded that the proposed transaction is unlikely to substantially lessen or prevent competition in any South African market.
- [7] The proposed merger raises no public interest concerns, and no third parties raised any concerns. Further, the merging parties provided an unequivocal statement that there will be no retrenchments as a result of the merger.
- [8] In light of the above, we concluded that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction.



Ms Mondo Mazwai

Dr. Thando Vilakazi and Prof. Fiona Tregenna concurring

23 June 2021

Date

Tribunal Case Manager:
For the Merging Parties:

Camilla Mathonsi
Darren Smith, HB Senekal, Duran Naidoo and
Jeremy de Beer of ENSafrica
Rethabile Ncheche and Ratshidaho Maphwanya

For the Commission:

³ Deloitte has the option to renew the Deloitte Lease for two additional, consecutive 5-year periods, which would result in Deloitte occupying the Deloitte Building until either March 2037 or March 2042.