



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM056Jul23

In the matter between:

Sanlam Life Insurance Limited

Acquiring Firm

And

Sanlam Personal Loans (Pty) Ltd

Target Firm

Panel: Liberty Mncube (Presiding Member)
Fiona Tregenna (Tribunal Panel Member)
Andiswa Ndoni (Tribunal Panel Member)

Heard on: 10 October 2023
Order issued on: 11 October 2023

Reasons issued on: 31 October 2023

REASONS FOR DECISION

Approval

- [1] On 11 October 2023, the Competition Tribunal (“Tribunal”) unconditionally approved the large merger wherein Sanlam Life Insurance Limited (“Sanlam Life”) intends to acquire 30% of the shareholding in Sanlam Personal Loans (Pty) Ltd (“SPL”) as well as certain assets and employees associated with SPL (respectively, the “Sale Assets” and the “SPL-dedicated employees”). Upon implementation of the proposed transaction, Sanlam Life will move from a position of joint to sole control in respect of SPL and also acquire the Sale Assets and the SPL dedicated employees.

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm is Sanlam Life, a wholly owned subsidiary of Sanlam Limited (“Sanlam”).
- [3] Some of the firms directly controlled by Sanlam Life include Santam Limited, SanJV (RF) (Pty) Ltd, Glacier Financial Holdings (Pty) Ltd, Sanlam Linked Investments (Pty) Ltd, Coris Capital Holdings (Pty) Ltd, Sanlam Healthcare Management (Pty) Ltd, Simeka Employee Benefits Holdings (Pty) Ltd and Sanlam Emerging Markets (Pty) Ltd.
- [4] Sanlam, Sanlam Life and all its subsidiaries are herein after referred to as the Sanlam Group or the Acquiring Group.
- [5] The Sanlam Group is involved in the provision of unsecured personal loans through SPL, the target firm. Sanlam Life provides loans for operational purposes and capital market transactions.

Primary target firm

- [6] The primary target firms are (i) SPL and (ii) certain assets and employees associated with SPL (respectively, the “Sale Assets” and the “SPL-dedicated employees”).
- [7] SPL is jointly owned and controlled by Sanlam Life as to 70% and Direct Axis (SA) (Pty) Ltd (“Direct Axis”) as to 30%. SPL is currently managed and administered by Direct Axis Business Unit (“DABU”), a business unit of FirstRand Bank Limited (“FirstRand Bank”).
- [8] The Sale Assets forming part of the target firm are owned by DABU and the SPL-dedicated employees that will be transferred are employed by DABU.
- [9] SPL does not control any firms.
- [10] SPL provides unsecured personal loans of between R5 000 and R300 000 to qualifying individuals on a repayment term of 12 months to 6 years at a fixed interest rate. SPL also offers rewards for personal loans taken out with SPL via its monetary reward programme, Wealth Bonus.

Proposed transaction and rationale

Transaction

[11] In terms of the proposed transaction, Sanlam Life intends to acquire Direct Axis's 30% stake in SPL. Additionally, DABU will also transfer the Sale Assets and the SPL-dedicated employees to SPL.

[12] The Sale Assets include the following

12.1. [REDACTED] under the [REDACTED] including all [REDACTED]
[REDACTED]
[REDACTED] thereunder; and

12.2. The [REDACTED] and
[REDACTED] having been defined in the
[REDACTED]

[13] The SPL-dedicated employees refer to approximately [REDACTED] employees that DABU will transfer to SPL.

Rationale

[14] The Proposed Transaction will allow Sanlam full autonomy to vest its own lending capability that will enable it to implement its planned growth strategy and the integration of SPL into Sanlam's digital ecosystems. By investing in this opportunity, Sanlam will be able to augment its existing digital and unsecured lending initiatives and business lines with 'native' advice-led digital lending businesses. The business will also have the necessary non-digital customer engagement channels available to maintain current SPL production volume.

Relationship between the parties

[15] Having considered the business activities of the merging parties, we find that the Proposed Transaction gives rise to a horizontal overlap in the provision of unsecured personal loans. It is sufficient to note, however, that perusal of the competitiveness report indicates that Sanlam Life offers unsecured personal loans only through its 70% interest in SPL and does not operate any other unsecured loan business.

[16] Also, in line with the Competition Commission ("Commission")'s recommendation, we find that the Proposed Transaction gives rise to a vertical relationship given that Sanlam Credit Solutions ("SCS") and SPL have a referral agreement in terms of which SCS refers leads for potential personal credit to SPL in exchange for referral fees. In terms of the Marketing and Referral Agreement concluded between SCS and SPL, SCS refers unsecured personal loan enquiries generated from its digital platform to SPL. Another vertical

relationship is that SDM provides credit life cover and funeral products to SPL clients as optional add-on products to SPL clients on their loans.

Relevant markets

- [17] When assessing the proposed transaction, we did not find any evidence suggesting that the relevant market should be broader than the one defined in the Commission's recommendation.
- [18] We have, in previous cases¹, found that the provision of secured (equity-backed) loans by Sanlam Private Wealth and of loans specifically for operational purposes and capital market transactions do not fall within the market for the provision of unsecured personal loans. Given that Sanlam Life only offers unsecured personal loans through SPL, we define the relevant product market as the market for the provision of unsecured personal loans in South Africa.

Competition Assessment

Horizontal assessment

- [19] In assessing the dynamics of the market, we relied on market share information provided by the Commission. Having regard to the information, we find that the largest providers of unsecured personal loans in South Africa are ██████████ ██████████ ██████████ and ██████████. Other prominent competitors in the market for the provision of unsecured personal loans include ██████████, ██████████ ██████████ and ██████████.
- [20] Given that SPL accounts for a minimal market share of less than █%, we conclude that the move from joint to sole control on SPL by Sanlam is unlikely to alter the structure of the market.

Vertical assessment

- [21] As regards the business relationship between SCS and SPL, we do not find any evidence suggesting that there will be any change in incentives to refer business to SPL that did not exist pre-transaction. This is because, both SCS and SPL are part of the Sanlam Group controlled companies (with Sanlam Life's 70% interest in SPL) pre-transaction and this will remain the case post-transaction. Also, perusal of the merger record indicates that referrals from SCS constituted a small proportion of SPL's total value of unsecured personal loans paid out by SPL, and that majority of SPL's loans originate from its various marketing strategies.

¹ *Firefly Investments 326 (Pty) Ltd and Bayport Financial Services 2010 (Pty) Ltd [LM141Aug17] CTZA*

[22] In respect of the vertical relationship between SDM and SPL in the provision of credit life cover and funeral products to SPL clients, we find that such products are considered as optional add-on products to SPL clients on their loans. Customers that procure unsecured loans from SPL are required to obtain credit-life insurance in respect of such loans and may elect to obtain credit life insurance from any insurance provider of their choice. However, it is not required that customers obtain funeral life cover whether from SDM or any other provider. SPL does not receive any revenue from credit life insurance or funeral life products purchased by its customers, and customers enter into the relevant insurance arrangement with SDM directly.

[23] In light of the above, we are of the view that the Proposed Transaction is unlikely to raise any foreclosure concerns.

Conclusion on competition assessment

[24] We assessed the prospects for competition with the Proposed Transaction against the competitive status quo without the Proposed Transaction. Based on the above evidence, we conclude that there are no significant competitive concerns raised.

Public interest assessment

Effect on employment

[25] The merger parties submitted that there will be no retrenchments or redundancies as a result of the proposed transaction. The merging parties further submitted that approximately [REDACTED] of the current SPL-dedicated employees will all be transferred to SPL in terms of section 197 of the Labour Relations Act, with the exception of certain SPL-dedicated employees that have elected to enter into agreements in terms of section 197(6) of the Labour Relations Act (who will continue to be employed by FirstBank).

[26] The Commission engaged with the employee representatives of the merging parties. The employee representative of SPL dedicated employees “South African Society of Bank Officials” informed the Commission that they have been notified of the proposed transaction and a meeting regarding the section 197 transfers was held where it was concluded that [REDACTED] employees will be transferred to Sanlam Life.

[27] The employee representative of Sanlam Life “[REDACTED]” informed the Commission that the employees of Sanlam Life have been notified of the proposed transaction and that no employee related concerns were raised although there have been [REDACTED] retrenchments in the last 12 months at Sanlam

Life. The merging parties clarified that there were ■ retrenchments in the 12 months from 01 July 2022 to 30 June 2023 preceding the merger filing due to operational requirements, ill-health and abscondment.

- [28] In light of the above, the Commission assessed the merger specificity of the pre-merger retrenchments by considering the timelines of engagement on the proposed transaction and strategic documents outlining the decisions to undertake the retrenchment. The Commission also considered the substantiality of the retrenched employees. The Commission found that as of 14 September 2023, the combined staff complement of the various business units affected by retrenchments is ■ (excluding contract and temporary employees) and ■ (including contract and temporary employees). Of the total ■ employees, the ■ retrenchments represent approximately ■% of the total staff complement. The Commission found that the ■ retrenched employees constitute a small percentage of the overall staff complement of the combination of business units within Sanlam Life.
- [29] For completeness, of the total ■ etrenchments, ■ retrenchment was due to abscondment, and ■ retrenchment was due to ill-health. Of the remaining ■ retrenchments which were as a result of operational requirements, ■ of the retrenched employees accepted voluntary severance packages and were therefore excluded from the Affected Employees assessed by the Commission. Considering the ■ involuntary retrenchments, the Commission found that ■ of the Affected Employees who were retrenched for operational reasons are all classified as skilled with qualifications such as Btech: Marketing, Diploma in Financial Management, BCom HR and National Diploma in HR. It was further found that the retrenched employees have years of service of between 5 years and 17 years at Sanlam Life. Therefore, the retrenchments are not considered substantial.
- [30] In relation to the remaining ■ Affected Employees, it was found that these employees have qualifications below NQF 5 level as these employees only have matric with no other qualifications. These Affected Employees were classified as unskilled. The Commission however found that the retrenchment of the ■ unskilled Affected Employees occurred during October 2021 to December 2021 which is before the proposed transaction was contemplated in September 2022.
- [31] The Commission is therefore of the view that these retrenchments are unlikely to be related to the proposed transaction as they were initiated before the contemplation of the proposed transaction was initiated.
- [32] Considering the above, we consider it unlikely that the proposed transaction will have a negative effect on employment.

Effect on the spread of ownership

- [33] Sanlam Life, through Sanlam, is a Level 1 B-BBEE contributor and has an HDP shareholding of 47,59%. FirstRand, which ultimately holds 100% in Direct Axis, is similarly a Level 1 B-BBEE contributor and has a HDP shareholding of 28,8%.
- [34] The Commission submits that pre-transaction, SPL has a HDP shareholding of 41,95%. This is calculated on the basis of 70% of SPL's shares ultimately being owned by HDPs as to 47,59% and 30% of its shares ultimately being owned by HDPs as to 28,8%. Post-transaction, SPL will, by virtue of being a wholly owned subsidiary of Sanlam Life, have HDP shareholding of 47,59% (an increase of 5,64% in HDP shareholding).
- [35] Having regard to the above, we conclude that the proposed transaction does not raise any public interest concerns.

Conclusion

- [36] Considering the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Accordingly, we approve the proposed transaction unconditionally.

Signed by: Liberty Mncube
Signed at: 2023-10-31 15:20:10 +02:00
Reason: Witnessing Liberty Mncube

L-Mncube

Professor Liberty Mncube

31 October 2023

Date

Concurring: Professor Fiona Tregenna and Ms Andiswa Ndoni

Tribunal case manager : Baneng Naape

For the merging parties : Lameez Mayet and Lizél Blignaut of ENS Africa

For the Commission : Tarryn Sampson and Portia Bele