

THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT001Feb2017

In the matter regarding:

Freedom Property Fund Limited

Applicant

(Registration number: 2012/129186/06)

Coram: S. Gounden

Decision handed down on 3 March 2017

DECISION

INTRODUCTION

- [1] The Applicant applies in terms of section 61(7) of the Companies Act 71 of 2008 (“Act” / “Companies Act”) for an extension of time for convening an annual general meeting.

BACKGROUND

- [2] The Applicant is a public company.
- [3] The Applicant filed an application stated above as prescribed by regulation 142 (1) (a), together with a supporting affidavit as required by regulation 142 (1) (b). Mr. Stephen Maritz has signed the affidavit and has claimed that he was duly authorised to act for and on behalf of the Applicant.
- [4] The Applicant’s last annual general meeting was held on 28 August 2015 and was unable to hold the 2015 annual general meeting within 15 months from the date of the previous annual general meeting, due to *inter alia* the ongoing investigations into irregular and potential fraudulent transactions in both the 2015 and 2016 reporting periods.

ISSUES

- [5] A resolution of the Board of the Applicant dated 27 November 2016 authorising Mr. Stephen Maritz to act for and on behalf of the Applicant was included in the application.
- [6] The Applicant requests that the Companies Tribunal grants the relief to extend the time to hold the annual general meeting.

APPLICABLE LAW

- [7] The jurisdiction of the Companies Tribunal is stated in section 61 of the Act and is as follows:
*“(7) A public company must convene an annual general meeting of its shareholders –
(a) initially, no more than 18 months after the company’s date of incorporation;
and
(b) thereafter, once in every calendar year, but no more than 15 months after the date of the previous annual general meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown.”*

EVALUATION

- [8] The Applicant passed a Directors resolution on 27 November 2016, authorising the company to apply for an extension of time to hold the annual general meeting of the company.
- [9] The annual general meeting should have been held fifteen months after the last annual general meeting that is the 28 November 2016.
- [10] The Applicant should have applied for an extension of time to conduct an annual general meeting **prior to 28 November 2016**. However, no reasons were provided for the delay in submitting the application for an extension of time to conduct an Annual General Meeting.

- [11] The reason provided by the applicant as to why it could not hold the annual general meeting before the 28 November 2016 was that there is ongoing investigations into irregular and potential fraudulent transactions in both the 2015 and 2016 reporting periods.

FINDINGS

- [12] The Applicant has shown good cause as to why the annual general meeting could not be held before 28 November 2016. However, reasons for the delay in making the application for an extension to hold the Annual General Meeting were not provided.

ORDER

- [13] The application for an extension of time to hold the 2015 annual general meeting has been granted, on the condition that it is held no later than 60 days from the date of this order.

S. Gounden
MEMBER OF THE COMPANIES
TRIBUNAL
Pretoria
3 March 2017