

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 30/LM/May05

In the large merger between:

The Standard Bank of South Africa Limited

and

Safika Holdings (Pty) Ltd

Reasons for Decision

APPROVAL

On 16 May 2005 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between the Standard Bank of South Africa Limited and Safika Holdings (Pty) Ltd in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

The Parties

1. The acquiring firm is the Standard Bank of South Africa Ltd ("Standard Bank"). It is part of the Standard Bank Group Limited, a public company listed on the JSE.
2. The primary target firm is Safika Holdings (Pty) Ltd ("Safika"), a black-owned investment holding company. It has a number of subsidiaries engaged in financial and non-financial services. Those that need concern us are the following that are engaged in the business of providing financial services:
 - a. Safika Asset Finance (Pty) Ltd – provides asset financing solutions for office and IT equipment.
 - b. Quantum Leap Investments 740 (Pty) Ltd – Safika has a 51% interest in this firm, which in turn has a 25% interest in Stanlib. The

other shareholders of Stanlib are Standard Bank and Liberty Life. Stanlib provides asset management services.

- c. Andisa Consortium (Pty) Ltd – Safika has a 29% interest here. Andisa provides financial services which range from corporate finance to treasure to project finance to private equity.
- d. Safika Resources (Pty) Ltd – Its financial services relate to the Natural Resources Empowerment Fund through which Safika raises third party capital for equity related investments in the natural resources sector.
- e. Safika Investments (Pty) Ltd – A wholly-owned Safika subsidiary, this is a private investment company involved in private equity investments.
- f. Tandem Capital (Pty) Ltd – A broad-based investment company, controlled by Safika, RMB Corvest and a BEE Trust. The parties describe it as an independent fund¹.

The Merger Transaction

- 3. Standard Bank will effectively acquire 20% of the issued share capital of Safika. It will also acquire certain rights in terms of the shareholders' agreement, including the right to appoint a Director to the Board and the right to veto certain of Safika's decisions, including the annual strategic plan and annual budget. In consequence, Standard Bank will be able to "materially influence" the policy of Safika, to trigger the change of control as required by section 12(2)(g) of the Act. Standard Bank is therefore acquiring joint control over Safika.
- 4. Post-merger, the only change to the pre-merger structure is that Standard Bank will have an interest in Safika, being represented by one director on the Board.

Rationale for the Transaction

- 5. The transaction will facilitate Standard Bank to enter into various BEE transactions, insofar as Safika is an empowered firm.**

¹ Independent funds are explained more fully below. Tandem Capital is an investment vehicle, owned 60% by a broad based trust, 30% by RMB Corvest and 10% by Safika Holdings. During the hearing a concern was raised about Standard Bank having representation on this board but the parties assured the Tribunal that this would not be the case. Safika would continue to have an operational representative on the Board of Tandem Capital.

The relevant product market

6. Both parties are engaged in the financial services sector. The product overlaps occur in various types of financial services. The only areas of overlap which are relevant for this merger are the asset financing (office and IT equipment) and private equity.

Asset Financing

7. The Commission evaluated the market for the financing of office and IT equipment throughout South Africa. Standard Bank finances a wide range of new and used moveable assets, but predominantly is involved with vehicle financing. Safika's asset financing relates to IT and office equipment. It does this via Safika Asset Finance. At a horizontal level, Safika has a market share of approximately 3%. Standard Bank only provided market share figures for the broad asset financing market which is 22%. Since the proportion of office equipment financing conducted by Standard Bank is minimal relative to the other type of asset financing it conducts, the combined market share is unlikely to exceed 10% post-merger.

Vertical Analysis

8. The commission noted some vertical issues within this market, since both parties operate at different functional levels of the market. Safika acts as a "broker" between the bank and the client and ultimately retains ownership of the equipment. Standard Bank will either finance the purchase of the equipment directly, or contract with a broker like Safika. However unlike Safika, Standard Bank does not retain ownership of the asset. What seems clear is that Safika and other brokers are frequently customers of all the banks in obtaining financing, hence the vertical relationship.
9. The Commission found that in both the markets for provision of asset financing (upstream) and for the brokering of IT and office equipment, the parties' market shares are low and neither can be construed to be dominant. Therefore, no foreclosure concerns are likely to arise. Furthermore, the merging parties assured that the fact that Safika conducts the majority of its client business with Standard Bank, will not mean that post-merger Safika will favour Standard Bank over other banks as Safika Asset Finance does go to various other banks to get terms and in future, this will be conducted on an arm's length basis. In their competitiveness report, the parties confirm that in future, it is likely that Safika Asset Finance will discount its leases with a more diverse number of banks.

Private Equity

10. The second area of overlap between the parties is in private equity investing. This activity comprises providing private enterprises with equity capital. They are classified as captive or as independent funds. Captive funds make investments exclusively on behalf of a parent company and funds are drawn from a pool available within the group. Independent funds comprise funds made from third party investors, but managed by the private equity firm. The parties advised that a separate sub-market exists for BEE funds, wherein these funds assist businesses to fulfill their empowerment objectives. Standard Bank is not involved in this type of funding and we do not find it necessary to delve further into this sub-market.
11. Since both captive and independent funds make capital available for recipients and have the same objectives, it might be possible to view both types of funds as forming part of one market. We however agree with the Commission's approach to avoid any detailed description of the market as no concerns arise on even a narrower market definition.
12. Post-merger the combined market share, based on total funds under management, is under 3% (independent funds) and 4.3% (captive funds). The combined market share for total private equity investments is 3.58%.

Conclusion

We conclude that the merger will not lead to a substantial lessening or prevention of competition.

The Tribunal therefore approves the transaction unconditionally. There are no public interest concerns which would alter this conclusion.

Y. Carrim

20 May 2005
Date

Concurring: M. Mokoena, U. Bhoola

For the merging parties: P.Cleland, Routledge Modise Moss Morris Attorneys
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For the Commission: S. Nunkoo, Competition Commission