

COMPANIES TRIBUNAL
of
THE REPUBLIC OF SOUTH AFRICA

Case Number CT005MAR2017

In the Ex Parte Application

FIRSTRAND RECEIVABLES (RF) LTD

Applicant

(Registration number 2015/058844/06)

In respect of

**AN APPLICATION FOR AN EXEMPTION FROM THE REQUIREMENT TO APPOINT A
SOCIAL AND ETHICS COMMITTEE**

Presiding Member of the Tribunal; Lucia Glass

DECISION (Reasons and Order)

INTRODUCTION

1. The Applicant applies for an exemption, from the requirement to appoint a Social and Ethics Committee, as imposed by Section 72(5)(a) of the Companies Act 71 of 2008 (further herein referred to as 'the Act').
2. This Application is made, on the basis that it is not reasonably necessary in the public interest to require the applicant to have a social and ethics committee, having regard to the nature and extent of the activities of the company.

PRELIMINARY ISSUES AND FACTS

3. The Deponent to the Applicant's founding affidavit is Johannes Jakob Van Der Walt, who alleges that he is a director of the Applicant and is authorised to depose to the founding affidavit.

4. It is averred that the Applicant is a special purpose vehicle that issues notes (including without limitation, debentures, promissory notes and commercial paper), enters into other transactions with investors and or uses funds borrowed or raised directly or indirectly from the notes. The Applicant's objective is to achieve stable returns by investing in participating assets.

5. It is further averred that the Applicant does not have employees and the evaluations in respect of its employees and employment practices which obviously includes compliance with labour relations would be irrelevant in this instance.

6. The deponent alleges that the contribution of the Applicant to social and economic development of the community in which it operates would be negligible due to the limited effect on exposure to the community.

8. Further that the Applicant's activities and products have no effect, directly or indirectly, on environment, health and public safety.

9. The applicable Section of the Act is:

Section 72 (5)

a) "the company is required in terms of other legislation to have and does have, some form of formal mechanism within its structures that substantially performs the function that would otherwise be performed by the social and ethics committee, in terms of this section and the regulations or

b) it is not reasonably necessary for the public interest to require the company to have a social and ethics committee having regard to the nature and extent of the activities of the company."

APPLICATION OF THE LAW TO THE FACTS

10. The Tribunal is to decide, whether in terms Section 72 (5) *b) it is reasonably necessary for the public interest to require the company to have a social and ethics committee having regard to the nature and extent of the activities of the company.*

I will weigh up the nature and extent of the applicant in respect of

- the Applicant being a special purpose vehicle that issues notes (including without limitation, debentures, promissory notes and commercial paper), enters into other

transactions with investors and or uses funds borrowed or raised directly or indirectly from the notes,

- the Applicant does not have employees and the evaluations in respect of its employees and employment practices, which obviously includes compliance with labour relations, would be irrelevant in this instance,
- the contribution by the Applicant to social and economic development of the community in which it operates, would be negligible due to the limited effect on exposure to the community,
- the Applicant's activities and products have no effect, directly or indirectly, on environment, health and public safety.

After considering the law, interpreting and applying Section 72 (5) b) of the Act it is my view that it is not reasonably necessary for the public interest to require the company to have a social and ethics committee having regard to the nature and extent of the activities of the company as stated above.

In this case, it is quite clear to me that the Applicant be exempted from appointing a Social and Ethics committee.

Order

I accordingly make the following order;

The Applicant is granted exemption from appointing a Social and Ethics Committee.

LUCIA GLASS

MEMBER OF THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Dated 29.3.17