

The Transaction

- 2] The primary acquiring firm is Macquarie Investment Holdings No. 2 (Pty) Ltd (“MIH”), a company incorporated in accordance with the laws of New South Wales, Australia. MIH is ultimately controlled by Macquarie Group Ltd (“Macquarie”), a company incorporated in accordance with the laws of Victoria, Australia.
- 3] The primary target firm is Macquarie Air Finance Limited (“MAF”), a company registered in accordance with the laws of Bermuda. MAF is a provider of aircraft operating leasing services, it is a global aviation lessor, providing aircrafts to airlines around the world and advisory and asset management services to aircraft owners.
- 4] The transaction is an international one, which was notified in South Africa because MAF is active in aircraft leasing in South Africa. In terms of the proposed transaction MIH intends to acquire 62.5% of the issued share capital in MAF. MIH is controlled by Macquarie, and Macquarie already has a 37,5% interest in MAF, which it jointly controls with Och-Ziff Capital Management Group LLC, who own the shares through Sculptor Investments S.A.R.L. (37.55%)¹. Pursuant to the proposed transaction, Macquarie will indirectly acquire sole control over MAF, through MIF, who will own 100% of the issued share capital in MAF.

The Rationale

- 5] The parties submit that aircraft operating leasing services are considered to be an important and growing part of Macquarie’s business. The parties indicate that MAF will benefit from the transaction by having access to funding to grow its business from Macquarie.

¹The identity of the minority shareholders constitutes confidential information.

The parties and their activities

- 6] Macquarie, together with its various subsidiaries, is a diversified international provider of specialist financial, banking, advisory, investment and fund management services. No single shareholder in Macquarie is able, either solely or in agreement with others, to exercise decisive influence over Macquarie.
- 7] MIH has no business activities in South Africa.
- 8] Macquarie's business within South Africa, through various subsidiaries includes the following:
 - a. Institutional stock broking;
 - b. Equity financing;
 - c. Equity derivative market making;
 - d. Structured finance; and
 - e. Corporate and project finance advisory services.
- 9] As stated above MAF is a provider of aircraft operating leasing services, it is a global aviation lessor, providing aircrafts to airlines around the world and advisory and asset management services to aircraft owners.
- 10] MAF has a number of subsidiaries globally; however none of these subsidiaries are active in South Africa. It does however own 10 aircraft which are on lease to a South African customer.
- 11] MAF owns 90 jet aircraft leased to operators internationally. Under an operating lease, a lessor acquires an aircraft and in turn leases it to an airline operator. At all times the lessor retains full ownership interest in the aircraft while the lessee is responsible for the operational costs and risk.

The relevant market and the impact on competition

12] There is no overlap between the activities of the merging firms because MIH has no activities in South Africa, and none of the products/services offered by Macquarie can be considered to be interchangeable with, or substitutable for, the services provided by MAF within the South African market.

13] There is therefore no product or geographic overlap in the activities of the merging parties.

14] In light of the above, we find that the transaction would not substantially prevent or lessen competition in the relevant markets.

CONCLUSION

15] There are no significant public interest issues and we accordingly approve the transaction.

Yasmin Carrim

29 October 2010
DATE

Andreas Wessels and Medi Mokuena concurring.

Tribunal Researcher: Thandi Lamprecht

For the merging parties: Webber Wentzel Attorneys

For the Commission: Nazeera Ramroop