



## COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 019133

In the matter between:

**FIRST RAND LIMITED N.O. AS TRUSTEE FOR  
THE TIME BEING OF THE EMIRA PROPERTY  
FUND**

Primary Acquiring Firm

And

**INTERGRI-T PROPERTY FUND LTD IN RESPECT OF  
OMNICRON INVESTMENTS 005 (PTY) LTD,  
LOWMER INVESTMENTS 005 (PTY) LTD,  
RAPIDOUGH PROPERTIES 509 (PTY) LTD,  
LIBRA INVESTMENTS 5 (PTY) LTD,  
AQUARELLA INVESTMENTS 272 (PTY) LTD AND  
ADAMASS INVESTMENTS 5 (PTY) LTD**

Primary Target Firms

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Panel	: N Manoim (Presiding Member)
	: Y Carrim (Tribunal Member)
	: M Mokuena (Tribunal Member)
Heard on	: 13 August 2014
Order Issued on	: 13 August 2014
Reasons Issued on	: 27 August 2014

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**Reasons for Decision**

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## Approval

- [1] On 13 August 2014, The Competition Tribunal ("**Tribunal**") unconditionally approved the acquisition by First Rand Limited N.O as trustee for the time being of the Emira Property Fund ("**Emira**") to acquire Intergri-T Property Fund Ltd ("**Intergri-T**") in respect of Omnicron Investments 005 (Pty) Ltd, Lowmer Investments 005 (Pty) Ltd, Rapidough Properties 509 (Pty) Ltd, Libra Investments 5 (Pty) Ltd, Aquarella Investments 272 (Pty) Ltd and Adamass Investments 5 (Pty) Ltd. The properties will be collectively referred to as the Target Firms.
- [2] The reasons for approving the proposed transaction follow.

## Parties to the transaction

- [3] The primary acquiring firm is Emira, is a portfolio created under the Emira Property Scheme in terms of the Collective Investment Scheme Control Act, 45 of 2002. It is listed on the Real Estate Investment Trusts sector on the Johannesburg Securities Exchange. Emira shareholders with a holding of more than 5% include; Tiso Group, Old Mutual and Government Employee Pension Fund. Emira is administered by Strategic Real Estate Managers and manages the fund subject to oversight of the Registrar and FirstRand.
- [4] Emira wholly controls Freestone Property Holdings Limited ("**FPH**"), in turn FPH wholly owns Freestone Property Investments (Pty) Ltd and Arnold Properties (Pty) Ltd. Arnold wholly owns the following subsidiaries; Azgold Investments (Pty) Ltd, Backbone Investments (Pty) Ltd, Kenview Share Block (Pty) Ltd, No.9 Sturdee Holdings Share Block (Pty) Ltd, Paddy's Pad (2091) (Pty) Ltd, Surgate Share Block (Pty) Ltd and Windrifter Share Block (Pty) Ltd.
- [5] The Target Firms are all subsidiaries of Intergri-T Property Fund Limited. The Target Firms do not control any firm. The Target firm owns the following properties; Makro in Crown Mines, Tygervalley Health in Tygervalley, Waterside Place in Tygervalley, Auditor General in Brooklyn, Atlas Gardens in

Durbanville, Parklands Healthcare in Parklands, Steelpark in Bellville and Roelcor in Kraaifontein.

### **Proposed Transaction**

- [6] Emira intends to acquire the entire issued shares in the Target Firms. Post-merger Emira will have sole control over the Target Firms.

### **Rationale**

- [7] Emira wishes to acquire high quality properties and increase its exposure in the retail space within a growing area in the Western Cape. Integri-T wants to realise profits on the capital that were injected into the company in 2008.

### **Relevant Market and Impact on Competition**

- [8] The acquiring group's property portfolio comprises of office, retail and industrial properties located throughout South Africa. Relevant for this transaction are the properties located in Pretoria, Johannesburg and Cape Town. The Target firms have a property investment firm with a property portfolio comprising of office, industrial and retail property which are located in the Western Cape and Gauteng provinces.
- [9] Emira and Integri-T both participate in the market for provision of office, retail and light industrial property. However the Commission found that in the market for provision of retail property, the Target Firms property is a speciality retail centre exclusively leased to Makro and not open to third parties. Furthermore the acquiring group's retail properties are classified as neighbourhood, convenience and community. The Commission is therefore of the view that the acquiring groups retail properties are unlikely to pose a competitive constraint on the Target Firms property and thus the Commission will not assess this market further.

### *Provision of office property*

- [10] In the market for provision of office property in the Brooklyn/ Nieuw Muckleneuk/ Groenkloof/ Waterkloof node, the Target firm owns A-Grade property located in Brooklyn whereas Emira owns A-Grade and B-Grade office properties located within Brooklyn and Hatfield. In this market Emira has a market share of 8.6% and the Target Firms have a market share of 1.1%. Post-merger the market share of the merged entities will be 9.7%.

### *Provision of industrial light space*

- [11] In the market for provision of industrial light space none of the merging parties' properties are located within the same node. However the Goodwood/Parow/Bellville node (where the Target firm has property) is adjacent to the Epping/Airport/Langa node (where the acquiring firm has property). There is a likely geographic overlap. If you combine these nodes Emira has a market share of 10.2% and the Target Firms have a market share of 5.7%, post-merger the market share of the merged entities will be 15.9%. The competitors overall will still have 84.1% market share. The Commission viewed the market shares of the merged entity as low and concluded that the merger would not significantly alter the structure of the market.

### **Public Interest**

- [12] The Commission identified a concern in relation to employment, 3 employees are likely to lose their jobs as a result of the merger. The 3 employees will not be transferred with the business to Emira. The Commission was concerned that the employees are unskilled and may not be able to find alternative employment in the short run should the employees not be retained. One of the employees has already secured employment with a third party and negotiations are still under way to ensure that the 2 other employees are retained within Intergri-T.

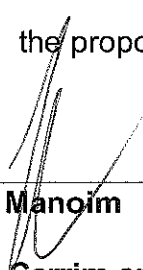
- [13] In order to ease the Commission's concerns in the interim whilst the board still Intergr-T deliberates the following undertaking has been made by Intergr-T to the Commission;

*"I confirm that Intergr-T Property Fund Limited has undertaken to provide the employees identified below, employed within the Intergr-T group, will not be retrenched as a result of the merger..."*

- [14] The undertaking ensures that the 2 employees are not retrenched for a 2 year period within Intergr-T or an alternative division within the group. The Commission is therefore satisfied with the undertaking and has decided not to impose a condition to the merger.

### **Conclusion**

- [15] In light of the above we concluded that the proposed transaction was unlikely to substantially prevent or lessen competition. In addition, no other public interest issues arise from the proposed transaction. Accordingly we approved the proposed transaction unconditionally.

  
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**Mr N Manojm**

27 August 2014  
DATE

**Ms Y Carrim and Ms M Mokuena concurring**

Tribunal Researcher:	Moleboheng Moleko
For the merging parties:	Albert Aukema – DLA Cliffe Dekker Hofmeyr
For the Commission:	Dineo Mashego and Xolela Nokele

