



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM104Oct23

In the matter between:

MOMENTUM METROPOLITAN STRATEGIC
INVESTMENTS PROPRIETARY LIMITED

Primary Acquiring Firm

And

INVESTMENT MANAGERS GROUP
PROPRIETARY LIMITED AND ROYAL
INVESTMENT
MANAGERS PROPRIETARY LIMITED

Primary Target Firm

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| Panel | : | L Mncube (Presiding Member) |
| | : | A Wessels (Tribunal Member) |
| | : | M Mazwai (Tribunal Member) |
| Heard on | : | 21 December 2023 |
| Order issued on | : | 23 January 2024 |
| Reasons issued on | : | 19 February 2024 |

REASONS FOR DECISION

- [1] On 23 January 2024 the Tribunal conditionally approved the large merger whereby Momentum Metropolitan Strategic Investments (Pty) Ltd (“MMSI”), intends to acquire the entire issued share capital of Investment Managers Group (Pty) Ltd (“Investment Managers”) and 50% of the shares in Royal Investment Managers (Pty) Ltd (“Royal Investment”).

The parties and their activities

Acquiring Firm

- [2] The primary acquiring firm is MMSI. MMSI is incorporated in accordance with

the laws of South Africa and is a wholly owned subsidiary of Momentum Metropolitan. MMSI does not control any other firms. Momentum Metropolitan is a company incorporated in accordance with the laws of South Africa and is not owned or controlled by any other firm. Momentum Metropolitan controls numerous firms within South Africa. MMSI, Momentum Metropolitan and all firms directly or indirectly controlled by Momentum Metropolitan will collectively be referred to as “the Acquiring Group”.

Target Firm

- [3] The primary target firms are (i) Investment Managers and (ii) Royal Investment. Investment Managers and Royal Investment are both companies which are incorporated and registered in accordance with the laws of the South Africa.
- [4] Investment Managers is wholly controlled by RMI Investment Managers Group (Pty) Ltd (“RMI IMG”). Investment Managers controls the following firms: RMI Investment Managers Affiliates 2 (Pty) Ltd (“AFF 2”) as to 51%. The balance of the shares in AFF 2 (49%) are held by MMSI, the primary acquiring firm in the instant transaction. AFF 2 controls RMI Investment Managers Affiliates 2B (Pty) Ltd (“AFF 2B”) as to 70%. Royal Bafokeng RIM (Pty) Ltd (“RB RIM”) holds the balance of the shares.
- [5] Royal Investment is jointly controlled by RMI IMG and Royal Bafokeng Investment Holding Company Proprietary Limited (“RBI”) as to 50% respectively. RMI IMG is ultimately controlled by OUTsurance Group Limited (“OUTsurance Group”). Investment Managers and Royal Investment will collectively be referred to as “the Target Group”.

Activities

- [6] The Acquiring Group is in the business of financial services, and it offers life and non-life insurance, employee benefits including healthcare and retirement provision, asset management, property management, investments and

savings, healthcare administration and health risk management, and client engagement solutions. Of relevance to the proposed transaction, is the Acquiring Group's asset management services.

- [7] The Target Group invests in asset management firms in respect of which they take minority, noncontrolling stakes. To elaborate, the Target Group invests in emerging and established financial services businesses in the asset management space.

Competition Assessment

- [8] There is no horizontal overlap between the activities of the merging parties.
- [9] The Target Group comprises investment companies and has a non-controlling interest in firms active in the market for the provision of asset management services and can appoint directors in those firms.
- [10] Post-merger, the Target Group will be controlled by the Acquiring Group, which is active in the asset management space, and that the Target Group has minority interests in the Affiliate Firms which are also active in the asset management space.
- [11] Put differently, in the current transaction, as a direct result of the merger, the Acquiring Group will have indirect shareholding interest in the following firms which are active in the broad market for the provision of asset management services: **[Firm 1]**; **[Firm 2]**; and **[Firm 3]**.
- [12] We considered whether the cross-shareholding might facilitate the exchange of commercially sensitive information between the Acquiring Group and the RIM Competing Firms' competing businesses post-merger, especially as the Target Group has board representation in respect of the RIM Competing Firms.

[13] The merging parties submit that the proposed merger, is unlikely to raise any coordinated effects concerns or information sharing concerns because the RIM Competing Firms are generally small and tend to target different customer segments in respect of asset types, portfolios, investment philosophy and investment strategies. The merging parties have also tendered a condition to address the risk of information sharing posed by the cross-shareholdings created by the proposed transaction. The condition provides that merging parties will design and implement a confidentiality and information exchange policy to the satisfaction of the Commission which shall stipulate, inter alia, that the employees and board members of the merging parties appointed in competing firms shall not share any competitively sensitive information. The Commission augmented the conditions to align with best practice. This condition has been attached as **Annexure A** to our reasons.

[14] No third party raised any competition concerns about this aspect of the proposed merger.

[15] Therefore, in light of the proposed condition, we do not consider it likely that the proposed merger will result in a prevention or lessening of competition.

Public Interest

Effect on employment

[16] The merging parties provided a firm undertaking that no merger specific retrenchments will take place because of the proposed transaction. The employee representatives contacted by the Commission indicated that there were no concerns raised by employees.

[17] We are of the view that the proposed transaction is unlikely to raise significant employment concerns.

The effect of the merger on the promotion of a greater spread of ownership by historically disadvantaged persons and workers in firms in the market

- [18] Momentum Metropolitan has a 29.7% shareholding held by historically disadvantaged persons (“HDPs”) based on its latest Broad-Based Black Economic Empowerment Certificate (“B-BBEE”).
- [19] The merging parties indicate that Investment Managers has a [REDACTED]% shareholding held by HDPs. The HDP shareholdings in Investment Managers are held through RMI IMG.
- [20] With respect to Royal Investment, the merging parties indicate that it has [REDACTED]% shareholding held by HDPs. These are held through RBI a firm that is [REDACTED]% owned by HDPs. Since RBI has [REDACTED]% shareholding in Royal Investment, this means that Royal Investment has [REDACTED]% HDP Shareholdings. In addition to this [REDACTED]% shareholding by HDPs held through RBI, Royal Investment has an effective [REDACTED]% HDP shareholding held through RMI IMG.
- [21] Furthermore, the merging parties have submitted that the proposed transaction will promote ownership by workers as there is a 3.5% ESOP in place within the Acquiring Group referred to as the iSabelo ESOP. iSabelo was established in 2021 as an inclusive ESOP to benefit all permanent, South-African based employees of the Acquiring Group.
- [22] Post-merger, all qualifying employees of Royal Investment and AFF 2, being the only entities within the Target Group in which there are employees, will be included in the iSabelo ESOP.
- [23] We are of the view that the proposed transaction is unlikely to raise significant negative effects on the promotion of a greater spread of ownership.

Conclusion on public interest

- [24] We are not aware of any other public interest concerns arising in this case.

Third party views

[25] No third parties, whether customers or competitors, expressed concerns about the proposed merger to the Tribunal.

Conclusion

[26] We therefore recommend that the proposed transaction be approved subject to the conditions attached hereto as **Annexure A**.

Signed by: Liberty Mncube
Signed at: 2024-02-19 15:22:50 +02:00
Reason: Witnessing Liberty Mncube

L-Mncube

19/02/24

Presiding Member
Professor Liberty Mncube

Date

Concurring: Mr Andreas Wessels and Ms Mondo Mazwai

Tribunal Case Manager: Princess Ka-Siboto
For the Merger Parties: Ave Ralarala and Judd Lurie of Bowman Gilfillan
For the Competition
Commission: Billy Mabatamela, Themba Mahlangu and
Nomthandazo Mndaweni