



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No.: LM015Apr25

In the matter between:

K2024528179 (South Africa) (Pty) Ltd

Primary Acquiring Firm

And

Barloworld Ltd

Primary Target Firm

Panel:	AW Wessels (Presiding Member) G Budlender (Tribunal Member) I Valodia (Tribunal Member)
Heard on:	17 June 2025, 02 July 2025 and 13 August 2025
Decided on:	15 August 2025

ORDER

Further to the recommendation of the Competition Commission in terms of section 14A(1)(b)(ii) of the Competition Act, 1998 ("the Act") the Competition Tribunal orders that—

1. the merger between the abovementioned parties be approved subject to the conditions set out in "**Annexure A**" and "**Annexure B**" in terms of section 16(2)(b) of the Act; and
2. a Merger Clearance Certificate be issued in terms of Competition Tribunal Rule 35(5)(a).

**Presiding Member
Mr Andreas Wessels**

**15 August 2025
Date**

Concurring: Adv. Geoff Budlender SC and Prof. Imraan Valodia

Merger Clearance Certificate

Date : 15 August 2025

To : Webber Wentzel Attorneys

Case Number: LM015Apr25
K2024528179 (South Africa) (Pty) Ltd And Barloworld Ltd

Notice CT 10

About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 20 business days.

You applied to the Competition Commission on **23 April 2025** for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act or was the subject of a Request for consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

☐ no conditions.

☒ the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- b) the approval was obtained by deceit.
- c) a firm concerned has breached an obligation attached to this approval.

Contacting the Tribunal

The Competition Tribunal
Private Bag X24
Sunnyside
Pretoria 0132
Republic of South Africa
tel: 27 12 394 3300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

The Registrar, Competition Tribunal

**ANNEXURE A: CONDITIONS
IN THE LARGE MERGER INVOLVING
K2024528179 (SOUTH AFRICA) (PTY) LTD
AND
BARLOWORLD LIMITED
TRIBUNAL CASE NUMBER: LM015Apr25**

CONDITIONS

1. DEFINITIONS AND INTERPRETATION

In this document, the expressions used above will have the appropriate meanings assigned to them and the following and related expressions will bear the following meanings:

- 1.1. **“Acquiring Firm”** means K2024528179 (South Africa) (Pty) Ltd;
- 1.2. **“Act”** means the Competition Act No. 89 of 1998, as amended;
- 1.3. **“Approval Date”** means the date on which the Merger is approved in terms of the Act;
- 1.4. **“Barloworld”** means Barloworld Limited;
- 1.5. **“Barloworld Empowerment Foundation”** means the trustees for the time being of the Barloworld Empowerment Foundation Trust, established in terms of the Trust Property Control Act, No. 57 of 1988, as amended from time to time, with the Master of the High Court reference number IT002613/2018;
- 1.6. **“Commission”** means the Competition Commission of South Africa;
- 1.7. **“Conditions”** means the merger conditions included in this Annexure A;
- 1.8. **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.9. **“Days”** means any day that is not a Saturday, Sunday, or public holiday in South Africa;

- 1.10. **"Employee Ownership Transaction"** means the acquisition by the ESOP of 5% of the issued shares in Barloworld pursuant to Phase 2 of the HDP Transaction;
- 1.11. **"ESOP"** means the Employee Share Ownership Programme to be established for purposes of implementing the Employee Ownership Transaction, in accordance with the design structure and terms set out in Annexure B;
- 1.12. **"HDPs"** means historically disadvantaged persons as defined in section 3(2) of the Act;
- 1.13. **"HDP Transaction"** means the acquisition of a collective 13.5% of the issued shares in Barloworld by HDP's and Participating Employees. The HDP Transaction will be implemented in two stages: Phase 1 and Phase 2;
- 1.14. **"Implementation Date"** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merger Parties in accordance with its terms;
- 1.15. **"Merger"** means the proposed acquisition by the Acquiring Firm of the Target Firm as notified to the Commission under Case No. 2025Apr0045;
- 1.16. **"Merged Entity"** means Barloworld subject to the Control by the Acquiring Firm following the Implementation Date;
- 1.17. **"Merger Parties"** means the parties to the Merger, being the Acquiring Firm and Target Firm;
- 1.18. **"Moratorium Period"** means the period between the Approval Date and the Implementation Date and, thereafter, a period of two (2) years from the Implementation Date;
- 1.19. **"Participating Employee"** means any person who is, in terms of the South African Labour Relations Act 66 of 1995 (as amended), an employee of Barloworld (a majority of whom are HDPs), being an individual who has been a permanent employee of Barloworld or its subsidiaries and associate companies for at least six months and is not (i) serving their notice period; (ii) in settlement negotiations concerning the termination of their employment relationship; or (iii) subject to any form of pending disciplinary action which may result in dismissal or an enquiry concerning any form of misconduct. For the avoidance of doubt, Participating Employee excludes a person who (i) is engaged as a

fixed term or limited duration employee or (ii) is engaged by Barloworld through a temporary employment services provider or (iii) ceases to be an employee of Barloworld.

1.20. **"Phase 1"** means the retention of a 3.5% shareholding in the Target Firm as at the Approval Date by the Barloworld Empowerment Foundation;

1.21. **"Phase 2"** means, subject to the approval by the Commission in terms of clause 4.3 and 4.4, the acquisition of a further collective 10% of the issued shares in Barloworld by HDPs and Participating Employees, following Barloworld's delisting from the JSE and A2X securities exchanges, comprising:

(i) a 5% shareholding in Barloworld to be held by the ESOP pursuant to the Employee Ownership Transaction consistent with the principles set out in **Annexure B** hereto; and

(ii) a 5% shareholding in Barloworld to be held by a women-led HDP consortium to be selected and approved by the Merged Entity, subject to Pre-screening.

In the event that the Standby Offer condition regarding the 90% acceptance threshold is waived by the Acquiring Firms and Barloworld Ordinary Shareholders holding less than 90% of all Barloworld Ordinary Shares accept the Standby Offer, Barloworld Ordinary Shares shall remain listed on the JSE until the listing is terminated in accordance with section 1 of the JSE listings requirements. In this regard, it is recognized that the implementation of Phase 2 of the HDP Transaction would not be practical in circumstances where the Target Firm remains listed, and the Merger Parties' commitment to implement Phase 2 will only apply if the Acquiring Firm's squeeze-out right under section 124 of the Companies Act has become capable of being exercised.

1.22. **"Pre-screening"** means, subject to clearance following compliance screening performed by the Merged Entity according to its reasonable requirements, which includes, but is not limited to, the relevant positive probity, politically exposed persons and Know Your Client checks;

1.23. **"South Africa"** means the Republic of South Africa;

1.24. **"Target Firm"** means Barloworld;

1.25. **"Tribunal"** means the Competition Tribunal of South Africa; and

1.26. **“Tribunal Rules”** means the Rules for the Conduct of Proceedings in the Tribunal.

2. EMPLOYMENT

2.1 For for the duration of the Moratorium Period, the Merged Entity shall not retrench any of its employees in South Africa as a result of the Merger.

2.2 For the sake of clarity, Merger-related retrenchments do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) terminations arising from unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements (for the purposes of the Labour Relations Act) unrelated to the Merger (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance; and (vii) any decision not to renew or extend a contract of a fixed-term third party contract employee or contract with a third party.

2.3 In addition, no Target Firm employee's terms and conditions of employment in South Africa will be changed as a result of the Merger.

3. Employee and HDP ownership

3.1 Within one (1) day of the Implementation Date, the Merger Parties shall implement Phase 1 of the HDP Transaction, as defined in clause 1.20.

3.2 Within 24 (twenty-four) months of Barloworld's delisting from the JSE and A2X securities exchanges following the implementation of the Merger, the Merger Parties shall implement Phase 2 of the HDP Transaction, as defined in clause 1.21.

4. MONITORING

4.1 The Merger Parties shall within 10 (ten) Days of the Implementation Date notify the Commission in writing of the implementation of the Merger and Phase 1.

4.2 The Merged Entity shall circulate a copy of the Conditions to the South African employees and employee representatives of the Merged Entity within 10 (ten) Days of the Approval Date. As proof of compliance herewith, the Merged Entity shall within 10

(ten) Days of so circulating the Conditions, notify the Commission of compliance and provide evidence of such circulation.

- 4.3 The Merged Entity shall, prior to the implementation of Phase 2, and at least 100 (one hundred) Days prior to the expiration of the time period in clause 3.2, provide the Commission with details of the proposed Phase 2 transactions in writing. These details shall include the identity of the women-led HDP consortium / shareholders, including evidence that the prospective HDP shareholders are appropriately classified as HDPs.
- 4.4 Within 45 (forty-five) Days of receipt of the details of the Phase 2 transactions, the Commission shall review such details and provide its written approval, or any comments or queries, in writing.
- 4.5 For the avoidance of doubt, the Phase 2 transaction may not be implemented prior to the Commission's written approval, which approval shall not be unreasonably withheld or delayed in circumstances where Phase 2 substantially complies with the standards set out in respect thereof at paragraphs 1.21.
- 4.6 In addition to the notice provided for in clause 4.3 above, the Merged Entity shall, every 3 (three) months from the date of Barloworld's delisting, provide a quarterly report to the Commission providing suitable information on the Merged Entity's progress relating to the Phase 2 transactions.
- 4.7 The Commission may request any additional information from the Merged Entity, which the Commission may, from time to time, deem necessary for purposes of monitoring the extent of compliance with these Conditions.
- 4.8 The Merged Entity shall provide copies of all reports in terms of this clause 4 to the employee representatives of the Merged Entity with which it consults in accordance with the ESOP design principles set out in Annexure B.

5. **APPARENT BREACH**

Should the Commission receive any complaint in relation to non-compliance with the above Conditions or otherwise determines that there has been an apparent breach by the Merger Parties of these Conditions, the breach shall be dealt with in terms of Rule 39 of the Commission Rules read together with Rule 37 of the Tribunal Rules.

6. **VARIATION**

The Merger Parties and/or the Commission may at any time, on good cause shown and on notice to the other, apply to the Tribunal for any of the Conditions to be waived, relaxed, modified or substituted.

7. **GENERAL**

All correspondence concerning these Conditions must be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

ANNEXURE B

Design Principle	Applicable Criteria
Structure	<ul style="list-style-type: none"> ○ The Merger Parties will implement the ESOP, which will hold 5% of the issued shares in the Target Firm, for the benefit of Participating Employees. ○ The structure of the ESOP is to be determined in consultation with workers.
Cost to Workers and participating HDPs	<ul style="list-style-type: none"> ○ No cost to workers: Workers must not be required to pay to participate in the ESOP. ○ Once the loan has been extinguished, 100% of the declared dividends due will be distributed to the beneficiaries. ○ Should the ESOP be funded by way of notional vendor finance, provision will be made for a fixed trickle dividend in terms of which at least 35% of declared dividends will be paid to the beneficiaries with the remaining 65% used to service the vendor financed loan until such time as it is extinguished. ○ The Merging Parties must make provision and cover the reasonable costs for independent legal and financial experts to act on behalf of workers in ESOP establishment negotiations (the "Provision"). For the avoidance of doubt, the Provision shall be at no cost to workers and must not impact any dividend flows due to workers. ○ Any disputes between the Merging Parties and any independent legal and financial experts as regards the reasonableness of fees / costs must be resolved by arbitration or any other mutually agreed dispute resolution mechanism.
Governance	<ul style="list-style-type: none"> ○ Participating Employees will be represented on the governance structure (board) of the vehicle / entity holding shares on behalf of Participating Employees.
Duration	<ul style="list-style-type: none"> ○ Perpetual / Evergreen
Participating Employees	<ul style="list-style-type: none"> ○ Means any person who is, in terms of South African Labour Relations Act 66 of 1995 (as amended), an employee of Barloworld (a majority of whom are HDPs), being an individual who has been a permanent employee of Barloworld or its subsidiaries and associate companies for at least six months excluding all Workers who hold senior management or executive positions.

<i>Participation Benefits</i>	<ul style="list-style-type: none">○ All Participating Employees will be entitled to dividends when dividends are declared and payable.○ Beneficiaries (i.e. Participating Employees) will cease to participate for bad leaver events: resignations and dismissals.
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