

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: 38/LM/Jun01

In the large merger between:

WesBank, a division of First Rand Bank Limited

and

BoE Bank Limited, for the acquisition of the unsecured personal loans book of BoE Business Division, a division of BoE Bank Limited

Reasons for Decision

APPROVAL

On 25 July 2001 the Competition Tribunal issued a Merger Clearance Certificate approving the merger between WesBank, a division of First Rand Bank Limited and BoE Bank Limited without conditions in terms of section 16(2)(a). The reasons for the approval of the merger appear below.

Background

1. The primary acquiring firm is WesBank, ("WesBank") a division of First Rand Bank Limited, ("First Rand") which is ultimately controlled by First Rand Limited. Other acquiring firms relevant to this transaction (and divisions of First Rand) include Cashpower, a division of WesBank, FNB Personal Loans, FNB Credit Cards, FNB Personal Overdrafts and Direct Axis (Pty) Ltd ("Direct Axis").¹
2. The primary target firm is the unsecured personal loans book of BoE Business Division, a division of BoE Bank Limited, ("BoE").² BoE is in turn controlled by BoE Limited and ultimately, by BoE Bank Holdings Limited. Other divisions of BoE relevant to this transaction include PEP Bank, NBS Personal Loans, BoE Personal Loans Division, BoE Credit Card and BoE Corporate (personal

1 FirstRand acquired Direct Axis pursuant to an equity acquisition in April 2001.

2 The Business Division of BoE Bank (formerly Boland Bank PKS), following the 1998 merger of BoE, NBS and Boland.

overdrafts).

3. In 1997 BoE Bank (then Boland Bank PKS Limited) and Direct Axis had entered into an agreement in terms of which Direct Axis became BoE's independent agent. It provided marketing and administrative services to BoE Bank relating to its Personal Loans Division in consideration for a fee. In terms of this agreement, BoE (Boland) ran its personal loans division as a separate division.
4. On 1 April 2001, FirstRand acquired 51% of the equity of Direct Axis.

The Merger Transaction

5. FirstRand (WesBank) is acquiring the personal loans book of BoE Bank's Personal Loans Division, previously operated through Direct Axis.³ This includes loans outstanding and the existing customer database.
6. BoE seeks to dispose of its loans book as part of a strategic decision insofar as this particular book does not meet its future strategic focus. BoE Business Division is presently realigning its businesses to enable it to entrench itself in the microfinancing market. It is accordingly disposing of this particular personal loan book to enable it to do so.⁴ WesBank (currently primarily a provider of vehicle finance) seeks to consolidate its position in the personal loans market, via Cashpower, its personal lending arm.⁵
7. Notwithstanding disposal of this specific loans book, following this transaction, the BoE Group will continue to operate in the personal loans market via two channels: PEP Bank and through a new unsecured personal loans business launched through NBS. FirstRand will continue to offer personal loans through First National Bank and WesBank.⁶

EVALUATING THE MERGER

³ Upon conclusion of the sale of the loans book agreement, the original agreement between BoE and Direct Axis was cancelled. Axis will now be responsible for the marketing, assessing, granting and administering of the personal loans for First Rand's personal loans division, as opposed to that provided for BoE (Boland Bank) as before.

⁴ BoE is nevertheless retaining a foothold in this market via its other personal lending divisions.

⁵ At the hearing the parties advised that the personal loans operation will be integrated by the formation of a new division, West Direct which will house Cashpower and the newly acquired BoE book.

⁶ See Record, CC4 (2) Annexure A. Through West Direct.

The relevant market

8. Both parties operate broadly within the financial services industry. Although WesBank is primarily focused on vehicle financing, it also has a personal lending arm, namely its Cashpower division. Cashpower provides an accessible form of “paperless” credit by telephone to consumers. The parties pointed out at the hearing that the vehicle financing and personal lending business models were similar, there were also some economies of scale, hence the reason for grouping this new acquisition under the WesBank banner.

9. Both BoE and FirstRand, through their respective divisions, provide personal loans to customer segments⁷ grouped as follows:

BoE and FirstRand Divisions

<i>Product</i>	<i>Amount</i>	<i>Term</i>	<i>Minimum Earnings</i>	<i>Customer Segment</i>
Wesbank				
Cashpower	R4,000 to R20,000	12 to 60 months	min R4,000 pm	LSM 7
FNB Personal Loans	R4,000 to R20,000	12 to 60 months	Min R3,000 pm	LSM 7
FNB Credit Cards & Overdrafts			Min R3,000 pm	LSM 7
BoE				
NBS Personal Loans	R2,000 to R20,000	12 to 60 months	Min R1,750 pm	LSM 6
PEP Bank	R1,000 to R10,000	6 to 36 months	Min R750 pm	LSM 2-3
Personal Loans (DirectAxis)			Min R3,000	LSM7
BoE Credit Card			Min R5,000 pm	LSM 7
BoE Corporate			Min R15,000	LSM 8

10. BoE Business Bank and Direct Axis primarily cater to the upper end of the personal loans market, falling within the purview of the Usury Act. At the hearing, the parties explained that this market was distinct from the micro-lending market, where personal loans are advanced to the mass, emerging market, in a lower income category.⁸

⁷ LSM is a method of segmenting customers into profiles to enable marketers to identify their target market.

⁸ This market is covered by the Usury Act’s Exemption Notice 15 (a), in terms of which interest rates are substantially higher.

11. The Commission analysed the market in respect of personal loans on the narrowest definition, excluding credit cards and overdrafts. ⁹ Since WesBank is only acquiring the personal loans book of BoE Bank's personal loans division, we find it unnecessary to define the relevant market in any detail for the purpose of this decision.

Impact on Competition

12. According to the Commission, the combined market share with BoE's book would be **13.13%** post-merger. The personal loans book of BoE Bank's personal loans division represents a mere market share of 1.43%. No competitor is being removed as BoE is retaining its presence in the personal lending market (1.3%). Accordingly, the Tribunal is of the view that this transaction will have little, if any effect on the prevailing state of competition in the personal loans market.

Firm	Market Value (RM)			% of Total	
	Total	FirstRand	BoE	First Rand	BoE
Personal loans	22,451	2,619	298	11.7	1.3
Specific BoE Book	326	-	326	-	1.43
Personal loans (with BoE Book)	22 777	-	624	-	2.73

13. The parties furthermore advised that there are many other competitors entering the market, since telephonic banking, especially in respect of personal loans is becoming common-place, to the extent that it could be regarded as a specific niche in the personal lending market. Not only do other established banks such as ABSA and Nedbank provide this service, but in addition, retailers such as Woolworths and Edgars are now providing personal loans, subject to the appropriate credit criteria being met.¹⁰
14. It is for these reasons that the Tribunal concludes that there will be no substantial lessening of competition in this market.

Public Interest Considerations

⁹ The Commission accordingly identified three distinct product markets in respect of the three types of services provided by the parties namely, overdrafts, credit cards and personal loan facilities. It focussed its analysis on the broad "personal loans" market only. It rejected the party's contentions that overdrafts and credit cards compete directly with personal loans, therefore falling within the same product market, since the former two products may be used for different purposes to that of personal loans.

¹⁰ We were advised that these loans are not tied to purchases at the retail institutions.

15. There are no employment concerns arising as a result of this merger. The parties claim that absent the merger, BoE would close down its personal loan business, resulting in approximately 120 Direct Axis employees being retrenched.

N. Manoim

31 July 2001

Date

Concurring: D. Terblanche, U. Bhoola