COMESA Competition Commission
Kang'ombe House, 5th Floor
P.O. Box 30742
Lilongwe 3, Malawi
Tel: +265 111 772 466/ 529/ 530
Email- compcom@comesacompetition.org

Common Market for Eastern and Southern Africa

Case File No. CCC/MER/12/34/2023

Decision[1] of the 105th Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Merger involving Absa Bank (Mauritius) Limited and the Retail Banking and the Local Corporate Banking Business of the Mauritius branch of the Hongkong and Shanghai Banking Corporation Limited

ECONOMIC SECTOR: Banking and Financial Services

COMESA COMPETITION COMMISSION
11 MAR 2024

11 March 2024

[1] In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the "**COMESA Treaty**");

Having regard to the COMESA Competition Regulations of 2004 (the "**Regulations**"), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the "**Rules**");

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States' economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 20 December 2023, the COMESA Competition Commission (the "**Commission**") received notification for approval of a merger involving Absa Bank (Mauritius) Limited ("**ABML**" or the "Acquiring Firm") and the retail and local corporate banking business of the Mauritius branch (the "**Target Business**") of Hongkong and Shanghai Banking Corporation Limited ("**HSBC**") (the "**Proposed Transaction**"), pursuant to Article 24(1) of the Regulations.

2. Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the transaction between the parties would or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.

3. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.

The Parties

ABML

4. The Acquiring Undertaking is ABML, a private company incorporated in accordance with the laws of Mauritius. ABML provides banking and financial services in Mauritius, in particular, retail, corporate, investment and international banking as well as wealth and investment management.

5. ABML is part of Absa Group Limited, a diversified financial services group with a presence in the following COMESA Member States: Kenya, Mauritius, Seychelles, Uganda, and Zambia.

The Target Business

6. The Target Business is the retail banking and the local corporate banking business (subject to exclusions) of the Mauritius branch of HSBC. HSBC is a company incorporated in Hong Kong. The Mauritius branch of HSBC is registered in Mauritius as a 'foreign company'.

7. The Target Business constitutes the retail banking operations (excluding safe deposit boxes) and local corporate banking operations comprising wholesale banking/business customers.

Jurisdiction of the Commission

8. Article 24(1) of the Regulations requires 'notifiable mergers' to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the "**Merger Notification Thresholds Rules**") provides that:

   Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the *target firm, operate in two or more Member States, shall be notifiable if:*

   a) *the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds USD 50 million; and*

COMESA COMPETITION COMMISSION
11 MAR 2024

b) *the annual turnover or value of assets, whichever is higher, in the* Common Market of each of at least two of the parties to a merger equals *or exceeds USD 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State.*

9. The undertakings concerned have operations in two or more Member States. The undertakings concerned hold assets of more than the threshold of USD 50 million in the Common Market and they each hold assets of more than USD 10 million in the Common Market. In addition, the parties do not hold more than two-thirds of their respective aggregate assets in one and the same Member State. The notified transaction is therefore notifiable to the Commission within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

10. The Proposed Transaction constitutes a sale of part of the business of HSBC in Mauritius. The rationale for the Proposed Transaction was submitted as follows:

i. For the Acquirer: The Proposed Transaction will allow Absa Bank Mauritius the opportunity to further increase the scale of its retail and business banking division, leveraging off existing resources, expertise and infrastructure such as its innovative digital solutions.

ii. For the Seller: The HSBC group regularly reviews its businesses in all markets, in line with its strategic objectives to deliver sustainable growth. The decision to exit HSBC domestic retail and SME businesses in Mauritius comes after a strategic review that looked at HSBC's strengths and the potential of the market. HSBC remains strongly committed to Mauritius and will focus on serving large and mid-market corporate clients that benefit from the HSBC group's unique global network and international financial capabilities.

COMPETITION ASSESSMENT

Consideration of the Relevant Markets

Relevant Product Market

11. Paragraph 7 of the Commission's Guidelines on Market Definition states that a *"relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products' characteristics, their prices and their intended use".*

12. The Acquiring Firm provides the following services in Mauritius – retail, corporate, investment and international banking, as well as wealth and investment management.

13. The retail banking segment of the Target Business comprised the provision of the following products and services to retail customers:

  i. deposits (current accounts and savings)[2]
  ii. home loans
  iii. credit cards; and
  iv. unsecured lending.[3]

14. The local corporate banking segment of the Target Business comprised the provision of the following products and services to wholesale banking/business customers falling within the Target Business:[4]

  i. deposits (current accounts and savings)[5]; and
  ii. lending.[6]

15. The parties were thus both active in the provision of retail and corporate banking services in Mauritius.

16. The provision of banking services entails a wide range of banking and financial services across various types of customers. In view of their distinct characteristics, a segmentation can be made by type of customers, and type of products, as discussed further below.

Segmentation by type of customers: Retail vs corporate banking

17. **Retail banking** generally comprises banking services to private individuals and very small enterprises, such as deposits and account services (current accounts, savings accounts, cash deposits, cheque collection, etc.), payment services (such as ATM services, direct debit, standing orders, card issuing), lending services (such as personal loans, overdrafts, mortgages, etc.). and investment products (such as

---

[2] These products and services include call deposits, savings accounts, term deposits and current deposits both denominated in rupee and in foreign currencies for both residents and non-residents.

[3] These products and services include personal loans and overdraft.

[4] It was submitted that the Target Business also provides trade products and treasury Cash FX products. It is, however, highlighted that these products make a trivial contribution to the income statement of the Target Business. Accordingly, these products will not be discussed further.

[5] These products and services include call deposits, savings accounts, term deposits and current deposits both denominated in rupee and in foreign currencies for both residents, holders of Global Business Licences and non-residents.

[6] These products and services include overdrafts, loans and import bills.

treasury services, mutual funds, securities brokerage services, etc.). On the other hand, **corporate banking** generally comprises banking services to corporate customers, from small and medium-sized customers to large corporate customers. Corporate banking includes a broad range of commercial banking services and products including working capital finance, term loans, asset finance, trade and specialised finance, commodity finance, pre-and post-shipment finance and structured finance.

18. Distinct markets for retail and corporate customers can be identified because the needs and behaviour of individuals and very small enterprises are different from those of larger corporate customers. Relative to the commercial banking segment, retail banking products tend to be more standardised and less complex, facilitating the introduction of new products into existing distribution channels. Retail customers would further not have access to the range of facilities available under corporate banking as typically a threshold of turnover or revenue need to be achieved. Customer relationship generally plays a more important relationship in corporate banking where companies may require tailor-made solutions for loans and daily banking. It is highly unlikely that in response to a small but significant non-transitory increase in interest rates of bank charges on retail product offerings, a significant number of retail customers would be able to switch to corporate product offerings. In view of the foregoing, and consistent with its past decisional practice, the CID has identified distinct markets for retail and corporate banking. The CID has further considered whether the retail banking and corporate banking markets could be further segmented by type of products offered.

Segmentation by type of products

19. Banking products can be categorised into four main groups: payment, deposit and accounts, lending and investment services. Each group performs remarkedly distinct functions and there is no direct demand substitutability between them. For instance, an individual applying for a loan to pay off debts or for investment opportunities will be unaffected by the rates on deposit accounts as the latter will not serve his/her purpose. Further, customers are free to transact with different banks for different types of products; for instance, for lending products, customers are not required to have deposit accounts at the same bank in order to benefit from a loan, but rather must demonstrate proof of sustainable income and/or collaterals. Similarly, payment services can be distinguished from deposit services or investment services, as they are meant to allow customers to effect or receive payments, which can be realised with or without bank accounts.

20. Further, the risks associated with lending and payment products make the conditions of competition substantially different for deposits products which the customer has to satisfy the bank in order to mitigate against any associated risks.

21. Investment services are among the most complex financial solutions under the banking portfolio. They involve different types of products that serve different entities and different purposes. The aim is to assist individuals or corporates to raise capital and provide financial consultancy services to them.

22. These groups of products can each be further segmented into narrower markets. For instance, one can distinguish between various types of payment services from ATM services, credit transfers, to direct debits. Similarly, within the lending market, one can distinguish between personal loans for different consumption needs e.g., car loan, mortgages, etc. which require different level of collaterals, and carry different interest rates, repayment obligations, etc. Within the savings category, retail customers can choose between products which provide basic savings option but which differ in terms of minimum balance requirements, interest rates, or withdrawal limits. Investment services includes investment in T-bills and T-bonds, treasury products in the form of fixed income, money market and foreign exchange trading service.

23. While there is clear differentiation among some of the products offered within each category of loan and deposit product, there exists nonetheless some degree of demand substitutability across other products[7]. Further, it was noted from a supply perspective that the various products are extensively linked due to the fact that they are distributed through the same branch offices, mobile and internet banking facilities[8]. Most banks offer all or at least a wide range of products under a given category to offer a one-stop shopping experience for customers who would save on information costs.

24. In view of the foregoing, and in line with its previous decisions[9], the CID considered that the respective markets for loans, deposits and payment services do not warrant further segmentation. The CID did not further assess the market for investment banking services, noting that the Target Business' activities in this market were immaterial, and therefore were not capable of causing a significant effect on competition or trade within the Common Market or part thereof.

[7] A similar argument was made in European Commission Case No COMP/M.4844-Fortis/ ABN AMRO Assets, dated 03/10/2007, paragraphs 24 and 25.
[8] A similar finding was established by the European Commission in its approval of the merger between Nordbanken and Postgirot who were also active in the banking sector (Case No COMP/M.2567, decision dated 08/11/2001, paragraph 38).
[9] See for instance the CID decisions in the merger involving Transnational Bank Plc and Access Bank Plc (2019); and the acquisition by Arab Bank Corporation (B.S.C) of Blom Bank Egypt S.A.E (2021).

25. On the basis of the foregoing assessment, and without prejudice to the CID's approach in future cases, the following relevant product markets were identified:

a) Provision of retail lending services;

b) Provision of retail deposit services;

c) Provision of corporate lending services;

d) Provision of corporate deposit services; and,

e) Provision of retail payment services.

Relevant Geographic Market

26. The Commission's Guidelines on Market Definition define the relevant geographic market as follows:

> *"**The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas**"* [10].

27. Banks and other financial institutions tend to operate within the confines of the national law of a particular country by virtue of the licences they are given. It is unlikely that as a result of more favourable conditions in other countries, the merging parties would be able to easily switch to set up operations or branches in these other countries, as they would need to obtain the relevant licenses in these jurisdictions. The time required for seeking regulatory approvals in other Member States would not allow the merging parties to enter in a manner that is swift and without risks, as contemplated under the SSNIP test. The need for banks to establish local branches also points towards the existence of a national market. While customers can use local ATM for cards issued by foreign banks, these generally carry a cost which may not be competitive over a significant period of time. Further, in order to secure certain types of services from a bank, customer typically need to provide proof of residency in that country.

28. From a demand perspective, it was unlikely that a significant number of individuals or corporate customers located in Mauritius would be able or willing to substitute purchase of banking products/services from Mauritius to another country in response

[10] Paragraph 8.

to a small but significant deterioration of the terms and conditions offered by banks in Mauritius. It was recognised that certain customers that have residential status or commercial activities in more than one country may be able to conduct transactions across borders with relative ease. However, such cross-border transactions would only apply to a limited segment of customers.

29. Therefore, the CID considered that the geographic scope for the identified product markets was national, as a result of fiscal constraints and regulatory systems. It was noted that the parties' activities in the provision of banking products/services only overlap in one geographic market, being Mauritius. In view of the national character of the product markets, the CID focussed its assessment on the geographic area of overlap, i.e., Mauritius.

Conclusion on Relevant Markets

30. Based on the foregoing assessment, and without prejudice to its approach in similar future cases, the CID construed the relevant markets as the:

i. ***Provision of retail lending services in Mauritius;***

ii. ***Provision of retail deposit services in Mauritius;***

iii. ***Provision of corporate lending services in Mauritius;***

iv. ***Provision of corporate deposit services in Mauritius; and,***

v. ***Provision of retail payment services in Mauritius.***

Market Shares and Concentration

31. The CID observed that as of February 2024, the Mauritian banking sector consisted of 19 banks, 5 of which are local banks, 12 foreign bank subsidiaries and branches, one joint venture and one private bank. The largest Mauritian bank is the Mauritius Commercial Bank Limited (MCB) with other large players including the State Bank of Mauritius, Standard Chartered Bank and Investec Bank. There were 160 physical branches in Mauritius and 450 ATMs across the island.

32. The parties provided information in respect of the following products and services within the retail banking sector (Table 1 below):

a) deposits (current accounts and savings);

b) home loans;

c) credit cards; and

d) unsecured lending (Personal loans and overdraft).

Table 1: Estimated Market Shares of Merging Parties and Main Competitors in the Provision of Retail Banking Services in Mauritius[11]

Product	Competitors	Market share
Credit Card	***Target Business***	***[5-10%]***
	ABML	***[10-15%]***
	Combined	***[20-25%]***
	The Mauritius Commercial Bank Limited	[35-40%]
	SBM Bank (Mauritius) Ltd	[15-20%]
	CIM Financial Services	[10-15%]
	AfrAsia Bank Limited	[5-10%]
	Bank One Limited	[0-5%]
	Others	[5-10%]
	Total	**100.00%**
Deposits	***Target Business***	***[0-5%]***
	ABML	***[5-10%]***
	Combined	***[10-15%]***
	The Mauritius Commercial Bank Limited	[50-55%]
	SBM Bank (Mauritius) Ltd	[20-25%]
	AfrAsia Bank Limited	[0-5%]
	Bank OneLimited	[0-5%]
	Others	[5-10%]
	Total	**100.00%**
Home Loans	***Target Business***	***[0-5%]***
	ABML	***[10-15%]***
	Combined	***[15-20%]***
	The Mauritius Commercial Bank Limited	[30-35%]
	SBM Bank (Mauritius) Ltd	[30-35%]
	AfrAsia Bank Limited	[0-5%]
	Bank One Limited	[5-10%]
	Others	[5-10%]
	Total	**100.00%**
Unsecured lending	***Target Business***	***[0-5%]***
	ABML	***[15-20%]***
	Combined	***[15-20%]***
	The Mauritius Commercial Bank Limited	[20-25%]

[11] Information claimed as confidential by the merging parties.

	SBM Bank (Mauritius) Ltd	[20-25%]
	AfrAsia Bank Limited	[5-10%]
	Bank One Limited	[5-10%]
	Others	[20-25%]
	Total	100.00%

33. The CID observed that the acquiring group was the third largest player across all the retail products. The two largest national banks, namely, MCB and SBM, together accounted for at least [40-50]% of the markets. The target was a relatively insignificant player in the submarkets for the provision of retail deposit, home loans and unsecured lending, with an estimated market share of [0-5]%. The transaction would therefore not lead to a significant market share accretion in these markets, such that there would not be a significant change to the market concentration levels. The low market share accretion in the markets for retail deposit, home loans and unsecured lending suggested that the transaction would not be capable of negatively affecting competition.

34. In the narrower market for the provision of retail credit cards, the target business had an estimated market share of [5-10]%, resulting in a combined market share of [20-25]% for the merged entity post-merger. The transaction would result in the merged entity becoming the second largest player in this market, following MCB (with a market share of [35-40]%). The transaction would lead to an increase in concentration in an already concentrated market, with the CR-3 moving from [60-70]% to [70-80]%. Notwithstanding the increased concentration, the CID observed that the merged entity would continue to face competition from a number of competitors, including the large players such as MCB (the market leader) and SBM (the third largest bank), in the retail credit card market. The transaction was unlikely to result in unilateral effects, as customers of the merged entity would still have credible alternatives to whom they can turn in the event of exploitative or abusive conduct post-merger by the merged entity.

35. The parties provided information in respect of the following products and services within the corporate banking sector (Table 2 below):

a) deposits (current accounts and savings); and

b) loans.

Table 2: Estimated Market Shares of Merging Parties and Main Competitors in the Provision of Corporate Banking Services in Mauritius[12]

Product	Competitors	Market share
Corporate Lending	***Target Business***	***[0-5%]***
	ABML	***[15-20%]***
	Combined	***[15-20%]***
	The Mauritius Commercial Bank Limited	[35-40%]
	SBM Bank (Mauritius) Ltd	[15-20%]
	AfrAsia Bank Limited	[0-5%]
	Bank One Limited	[0-5%]
	Others	[20-25%]
	Total	**100.00%**
Corporate Deposit	***Target Business***	***[0-5%]***
	ABML	***[5-10%]***
	Combined	***[10-15%]***
	The Mauritius Commercial Bank Limited	[30-35%]
	SBM Bank (Mauritius) Ltd	[10-15%]
	AfrAsia Bank Limited	[5-10%]
	Bank One Limited	[0-5%]
	Others	[10-15%]
	Total	**100.0%**

36. It was observed that the acquirer was a relatively significant player in the corporate lending market. Nonetheless, the market share accretion resulting from the transaction would be insignificant, as the target had a market share of [0-5]% in each market. As a result, the transaction would not lead to a significant change in market structure in the corporate banking sector or segments thereof, and the transaction would not result in the creation or strengthening of dominance.

37. The CID observed that whilst there are significant regulatory barriers to entry, the transaction would not raise further threats that may hamper potential entrants.

38. Further, the fragmented nature of the relevant markets and asymmetry of market shares among existing players suggest that the transaction in itself is not likely to contribute to or facilitate coordinated effects.

[12] Information claimed as confidential by the merging parties.

Consideration of Third Party Views

39. In arriving at its determination, the CID also considered submissions from the national competition authorities of Kenya, Mauritius and Zambia, which confirmed the absence of competition and public interest concerns.

Determination

40. The CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor will it be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

41. The CID, therefore, approved the transaction.

42. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 11th day of March 2024

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma **Commissioner Islam Tagelsir Ahmed Alhasan**