



MERGER DECISION NO 14: 2019

Notice in Terms of Section 60(4) (a) (ii) of the Competition Act

DECISION ON THE PROPOSED ACQUISITION OF 100% ISSUED AND PAID UP ORDINARY SHARES OF BANK OF INDIA (BOTSWANA) LTD BY FIRST CAPITAL BANK LTD.

PURSUANT to section 60(4)(a)(ii) of the Competition Act (Cap 46:09), notice is hereby given on the decision made by the Competition Authority ("the Authority") in respect of the proposed acquisition of 100% issued and paid up ordinary shares of Bank Of India (Botswana) Ltd by First Capital Bank Ltd.

The analysis of the facts of the case have shown that there are no substantial competition concerns that will arise in the market for the provision of commercial banking services, given the fact that:

- a) The proposed transaction is not likely to result in substantial lessening of competition, due to market characteristics such as countervailing power and effective remaining competition, amongst others, that exist in the market under consideration; and
- b) The merger would not result in the merged entity attaining any dominant position in the market under consideration.

However, it is noted that the proposed acquisition gives rise to public interest concerns under section 59(2)(e) of the Competition Act as it is envisaged that upon implementation of the proposed transaction, all local employees shall be absorbed by the acquirer.

Taking the public interest concerns and pursuant to the provisions of section 60 of the Competition Act of Botswana, the Authority determined to *approve* the proposed acquisition of 100% issued and paid up ordinary shares of Bank Of India (Botswana) Ltd by First Capital Bank Ltd with the condition that:

- i. There shall be no merger specific retrenchments that may affect the local employees of Bank of India (Botswana) Ltd; and
- ii. The employees referred to in (i) above, shall be transferred to First Capital Bank Ltd on terms and conditions substantially no less favourable than their current terms and conditions of employment.

However, as stated under section 66 of the Act, this approval does not override or negate any other mandatory statutory approvals or processes that any of the parties to this merger must comply with under the Laws of Botswana.

Dated at Gaborone this 3rd day of April 2019.

Tebelelo Pule, Chief Executive Officer, Competition Authority, P/Bag 00101, Gaborone, Plot 28, Matsitama Road, Tel: 3934278 Fax: 3121013