
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

ECONOMIC DEVELOPMENT DEPARTMENT**NO. 1003****15 SEPTEMBER 2017****AMENDMENT OF THE DETERMINATION OF MERGER THRESHOLDS AS SET OUT IN GENERAL NOTICE 216 OF 2009**

I, Ebrahim Patel, Minister of Economic Development, hereby amend the determination of Merger Thresholds as set out in General Notice 216 of 2009 and publish in terms of section 11 of the Competition Act, a new Determination of Merger Thresholds.

The new Determination of Merger Thresholds shall be effective from 1 October 2017.



EBRAHIM PATEL
MINISTER OF ECONOMIC DEVELOPMENT

DATE: 13 SEPTEMBER 2017

ECONOMIC DEVELOPMENT DEPARTMENT**THE COMPETITION ACT, 1998 (ACT 89 OF 1998)****Determination of Merger Thresholds**

Notice is hereby given that, in terms of section 11 of the Competition Act, 1998 (Act No. 89 of 1998), the Minister of Economic Development, in consultation with the Competition Commission, hereby

- (a) amends the Determination of Merger Thresholds set out in General Notice 216 of 2009 published by Government Notice No.31957 of 6 March 2009; and
- (b) makes a new Determination of Merger Thresholds as set out in this Notice.

The new Determination of Merger Thresholds shall come into operation on 1 October 2017.

The Method of Calculation set out in General Notice 216 of 2009 published by Government Notice No. 31957 of 6 March 2009 shall remain unchanged.

Determination of Thresholds

Definitions

1. In this notice any word or expression to which a meaning has been ascribed in the Act bears the same meaning as in the Act unless the context indicates otherwise, and
 “G.A.A.P” means generally accepted accounting practice in South Africa;
 “the Act” means the Competition Act, 1998 (Act no. 89 of 1998); and
 “transferred firm” means –
 - (a) a firm, or the business or assets of the firm, that as a result of a transaction in any circumstances set out in section 12 of the Act, would become directly or indirectly controlled by an acquiring firm; and
 - (b) any other firm, or business or assets of the firm, the whole or part of whose business is directly or indirectly controlled by a firm contemplated in paragraph (a).

Lower thresholds

2. The lower threshold required to be determined in terms of section 11 of the Act is reached in respect of a merger if the value of that merger equals or exceeds both of the values set out in sub-items (1) and (2) –
 - (1) Either –
 - (a) the combined annual turnover in, into or from the Republic of the acquiring firms and the transferred firms valued below R600 million (six hundred million Rand); or
 - (b) the combined assets in the Republic of the acquiring firms and the transferred firms are valued at less than R600 million (six hundred million Rand); or
 - (c) the annual turnover in, into or from the Republic of the acquiring firms plus the assets in the Republic of the transferred firms are valued at less than R600 million (six hundred million Rand);

- (d) the annual turnover in, into or from the Republic of the transferred firms plus the assets in the Republic of the acquiring firms are valued at less than R600 million (six hundred million Rand).

(2) Either –

- (a) the annual turnover in, into or from the Republic, of the transferred firms is less than R100 million (one hundred million Rand); or
- (b) the asset value of the transferred firm is less than R100 million (one hundred million Rand).

Higher thresholds

3. The higher threshold required to be determined in terms of section 11 of the Act is reached in respect of a merger if the value of that merger equals or exceeds both of the values set out in sub-items (1) and (2):

(1) Either –

- (a) the combined annual turnover in, into or from the Republic of the acquiring firms and the transferred firms is valued at or above R 6,6 billion; or
- (b) the combined assets in the Republic of the acquiring firms and the transferred firms are valued at or above R 6,6 billion; or
- (c) the annual turnover in, into or from the Republic of the acquiring firms plus the assets in the Republic of the transferred firms are at or above R 6,6 billion; or
- (d) the annual turnover in, into or from the Republic of the transferred firms plus the assets in the Republic of the acquiring firms are at or above R 6,6 billion.

(2) Either –

- (a) the annual turnover in, into or from the Republic, of the transferred firms is valued at or above R 190 million; or
- (b) the asset value of the transferred firm is valued at or above R 190 million.

4. The provisions of the Act in respect of:

- (a) a small merger, apply to a merger if it falls below either value of the lower threshold;
- (b) an intermediate merger, apply to a merger if -
 - (i) it equals or exceeds both values of the lower threshold;but
 - (ii) falls below either value of the higher threshold; and
- (c) a large merger, apply to a merger if it equals or exceeds both values of the higher threshold.