

Volume 1: August 2018

Welcome Note

A warm welcome to the first issue of the TAKEOVER REGULATION PANEL ("Panel") Newsletter. The Panel is a regulatory agency established in terms of the Companies Act, 2008. We hope as the Panel that this Newsletter will enable us to reach our Stakeholders to share information and news about the Panel as well to enable them to have a better appreciation and understanding of the Panel and its functions.

From
The Executive and Management

1. PANEL NEWS

The Panel is pleased to announce the appointment of Mr. Basil Kgaugelo Mashabane as its new Deputy Executive Director effective from 01 July 2018. Mr Mashabane, an admitted attorney with over 14 years experience and qualifications including an LLM in Corporate Law and an MSc in Finance and Financial Law from the University of London, has been with the Panel for the last 7 years as Legal Counsel and a member of the Executive of the Panel responsible for the day-to-day management of the Panel working with the Executive Director, Mr. Madimetja Lucky Phakeng;

The Panel is delighted to announce that it will be hosting an International Conference in Takeover Law in Johannesburg on 25 and 26 October 2018 at the JSE Auditorium in Sandton, Johannesburg. Speakers at the conference will



include local and international Takeover Law practitioners and Academics discussing current issues and developments in Takeover Law.

Further information around the International Conference will be available on the Panel website closer to the date. Any queries in the meantime can be directed to **Ms. Lebalang Molobe** via the email address:

executiveassistant@trpanel.co.za

2. A VIEW FROM ABROAD.....

As one of a number of Takeovers and Mergers Regulators around the world and the Commonwealth, It is important that we always keep abreast of developments and the work undertaken by other Regulators in Takeover Law.



For this issue we are looking at the UK Takeover Panel ("Takeover Panel") and one of its latest rulings with some connection to South Africa as well strong relevance to our own Takeover Regulations and how our Panel applies them.

The Takeover Panel issued a ruling recently in the matter of **Rangers International Football Club Plc and Mr. David Cunningham King**. Mr. King is a South African businessman well-known for his long-running fight with the South African Revenue Service (SARS) and which dispute was only recently resolved with him paying SARS a substantial amount in settlement of his tax affairs.

The ruling was issued on **02 July 2018** and it can be accessed in full on the Takeover Panel website:

<http://www.thetakeoverpanel.org.uk/wp-content/uploads/2017/12/2018-8.pdf>

This was a ruling of the Chairman of the Hearing Committee of the Takeover Panel and it concerned the rejection of a request made by Mr. King, for a Hearing before the Committee to appeal a decision of the Executive that compelled him to comply with its Rule 2.7(d), whose purpose is on ensuring that an announcement to make an offer also includes confirmation by the offeror's financial adviser or other appropriate third party that the cash resources are available to the offeror to satisfy full acceptance of the offer. The ruling further emphasizes that the cash must be available within the jurisdiction itself (in this instance the UK and its currency) to enable the offer to be fully executed.

The rule applied in this ruling is similar and in line with the Panel's *Regulation 111(4) and (5)* and the *Guideline 1/2011* on cash confirmations and Bank Guarantees. Practitioners will be aware that this is a Regulation that the Panel consistently applies and that we have not experienced any serious difficulties in enforcing it.

3. FEATURE ARTICLE

The purpose of our Feature Articles is to provide more in-depth views and opinions on Takeover Law with the sole aim and purpose being to educate and encourage a variety of views on the Takeover Law provisions as contained in our Companies Act, 2008 and its accompanying Companies Regulations 2011...

Our first article in this respect is one written by our Executive Director, **Mr. Madimetja Lucky Phakeng** and published in the *De Rebus Attorneys Journal of March 2014*. The article is re-published here with the permission of *De Rebus* and the Law Society of South Africa.

The article is an excellent introduction on the role of the Takeover Regulation Panel in regulating Takeover and Mergers and the practical steps that we follow and apply in fulfilling this important mandate.

Full access to the article can be obtained through this link:

<http://www.derebus.org.za/the-role-of-the-takeover-regulation-panel-in-protecting-investors/>



PS: The Panel encourages and welcomes contributions from Takeover Law Practitioners including Attorneys and Corporate finance professionals to contribute short articles to the Panel Newsletter as a way of sharing their views and experiences of the Law and working with the Panel. We welcome all differing and constructive views.

Anyone wishing to contribute an article is encouraged to contact Mr. Basil Mashabane for further details.

4. UPCOMING EVENTS

The Panel will be hosting its annual Breakfast Seminars during August and September in both Durban and Cape Town as well as in Bloemfontein. The Seminars provide the Executive of the Panel with an opportunity to interact with its various stakeholders including practitioners and investors. The seminar are held in a relaxed atmosphere and consist of presentations accompanied by Q&A opportunities as well.

- (1) Durban Seminar will be held on 23 August 2018 at the Southern Sun Elangeni and Maharani Hotel ;
- (2) Bloemfontein Seminar will be held on 04 September 2018 at the President Hotel and Conference Venue
- (3) Cape Town Seminar will be held on 20 September 2018 at the JSE Regional Offices in Newlands, Cape Town.

RSVP details on the Seminars can be obtained from our Ms. Lebalang Molobe on (011) 784-0035 or email: executiveassistant@trpanel.co.za

DISCLAIMER: This Newsletter has been developed for only information and education purposes and not to provide any specific advise. Anyone person looking for advice and/or clarity on any of the matters discussed in this Newsletter should contact their advisors. When necessary, the Executive is available for consultation and to give rulings and interpretations before, during and, when appropriate, after takeovers and mergers. The Panel encourages early consultation to provide guidance so that problems can be avoided.

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