

SOUTH AFRICA / JUDGMENT

: Small Enterprise Finance Agency (Ltd) (CT009June2015), Ex parte [2015] ZACT 63 (1 July 2015)

[2015] ZACT 63

COURT

Competition Tribunal

BEFORE

Kganyago M.F

CASE / FILE NUMBER

CT009JUNE2015

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IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA , PRETORIA

CASE NO: CT009JUNE2015

In the ex-parte application of

Small Enterprise Finance Agency (Ltd) (Reg1995/011258/06)

Applicant

Coram: Kganyago M.F

Decision handed down on the 20th July 2015

DECISION

- [1] The applicant has brought an ex parte application, seeking an order for the extension to hold an Annual General Meeting ("AGM") later than 15 months from the date of their last AGM.
- [2] The applicant has stated that the Board of its Directors at a meeting held on the 25th May 2015 have resolved to apply to the Tribunal for an extension to hold its

AGM for the following

reasons:

2.1. SEFA is a wholly owned subsidiary of the Industrial Development Corporation Limited (IDC) which started reporting to the Department of Small Business Development on 1st April 2015 .

2.2. In terms of SEFA'S MOI, the Board of Directors is appointed by IDC, as the shareholder in consultation with the Executive Authority. The appointment of directors and the audit committee are matters to be transacted at an annual general meeting of a company.

2.3 Therefore, the Board of Directors of SEFA, and IDC wish to afford the Minister of Small Business Development enough time to consider the appointment of the new Board of Directors and the Audit Committee, and if relief is granted by the Tribunal , they will hold the company's AGM on or before 25th August 2015.

[3] In terms of section 61(7)(b) of the Companies Act 71 of 2008, a public company must convene an annual general meeting of its shareholders no more than 15 months after the date of the previous general meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown. The applicant is a public company, and it is therefore compelled to convene its AGM of

shareholders not more than 15 months after the date of the previous AGM. It is clear that the applicant will not be able to hold its AGM of shareholders within the stipulated 15 months period, hence they are applying for an extension.

[4] I am therefore satisfied with the reasons submitted by the applicant. In my view the said reasons constitute good cause to grant an extension of time to convene the AGM of shareholders outside the stipulated 15 months period.

[5] In the result I make the following order:

5.1. The applicant's application for an extension to convene its AGM later than the stipulated 15 months is granted.

5.2. The applicant to convene its AGM of shareholders on or before the 25th August 2015.

M.

MEMBER OF THE COMPANIES TRIBUNAL

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