

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NO. 5369****4 October 2024****COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****AIPCF VIII GLOBAL CORP HOLDING LP****AND****BOART LONGYEAR GROUP LTD****CASE NUMBER: 2024JAN0006**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission', that it has approved the transaction involving the abovementioned firms subject to conditions set out below:

Background

1. On 8 January 2024, the Competition Commission ("Commission") received notice of an intermediate merger wherein AIPCF VIII Global Corp Holding LP ("AIPCF") intends to acquire Boart Longyear Group Ltd ("Boart Longyear"). Subsequent to the implementation of the proposed merger, AIPCF will exercise sole control over Boart Longyear.
2. The primary acquiring firm is AIPCF, a company incorporated in accordance with the laws of the Cayman Islands. AIPCF is managed by AIP, LLC ("AIP"), a company incorporated in accordance with the laws of United States of America ("USA"). AIPCF together with its controlled and controlling affiliates are referred to as the "AIPCF Group".
3. AIPCF Group does not directly or indirectly control any firms in South Africa. For completeness, AIPCF Group control 6 (six) foreign firms with activities in South Africa.
4. AIPCF Group does not have any shareholding/ownership held by historically disadvantaged persons ("HDPs") as contemplated in the Competition Act No.89 of 1998, as amended, (the "Act").

5. AIPCF Group is a private equity firm focused on acquiring, improving, and growing industrial businesses across sectors like manufacturing, distribution, and industrial services.
6. The primary target firm is Boart Longyear, a public company listed on the Australian Securities Exchange and incorporated in accordance with the laws of Canada. Boart Longyear control various firms globally. In South Africa, Boart Longyear controls 2 (two) subsidiaries, namely: (i) Longyear South Africa (Pty) Ltd ("Longyear South Africa") and (ii) Veracio South Africa (Pty) Ltd ("Veracio South Africa").
7. 26.23% of the shares in Longyear South Africa is held by HDPs through the Longyear BEE Trust.
8. Boart Longyear is an integrated provider of drilling services, drilling equipment and performance tooling for mining and mineral drilling companies globally. In South Africa, Boart Longyear conducts its activities through Longyear South Africa and Veracio South Africa.

Competition analysis

9. There are no horizontal overlaps between the activities of the merging parties. In addition, the proposed merger does not result in any vertical overlaps.

Public Interest considerations

10. To address public interest concerns, the Commission has accepted the conditions tendered by the merging parties, which are attached hereto as **Annexure A**.

ANNEXURE A
AIPCF VIII GLOBAL CORP HOLDING LP

AND

BOART LONGYEAR GROUP LTD.

CASE NO: 2024JAN0006

CONDITIONS

1. DEFINITIONS

The following expressions shall bear the meaning assigned to them below and cognate expressions bear a corresponding meaning –

- 1.1 **“Acquiring Firm”** means AB Acquisition Corporation;
- 1.2 **“Approval Date”** means the date on which the Merger is approved in terms of the Competition Act;
- 1.3 **“Commission”** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;
- 1.4 **“Commission Rules”** means the Rules for the Conduct of Proceedings in the Commission;
- 1.5 **“Competition Act”** means the Competition Act, 89 of 1998;
- 1.6 **“Conditions”** means these conditions;
- 1.7 **“Days”** means any calendar day other than a Saturday, a Sunday or an official public holiday in South Africa;
- 1.8 **“HDPs”** means historically disadvantaged persons as contemplated by the Competition Act;

- 1.9 **"Implementation Date"** means the date on which the Merger is implemented by the Merging Parties in South Africa;
- 1.10 **"LRA"** means the Labour Relations Act, 66 of 1995, as amended;
- 1.11 **"Merger"** means the proposed transaction notified to the Commission under the above case number;
- 1.12 **"Merging Parties"** means the Acquiring Firm and the Target Firm;
- 1.13 **"Public Interest initiatives"** means all the Target Firm's public interest initiatives such as bursary and learnership programmes for HDPs, preferential procurement from HDP owned firms, supplier, enterprise and socio-economic development, amongst others.
- 1.14 **"Target Firm"** means, for purposes hereof, Longyear South Africa Proprietary Limited and Veracio South Africa Proprietary Limited;
- 1.15 **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act; and
- 1.16 **"Tribunal Rules"** mean the Rules for the Conduct of Proceedings in the Tribunal.

2. EMPLOYMENT CONDITION

- 2.1 The merged entity shall not retrench any employees in South Africa as a result of the Merger.
- 2.2 For the sake of clarity, retrenchments for purposes of these Conditions, will not include (i) voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the LRA; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

3. ENTERPRISE AND SUPPLIER DEVELOPMENT, CORPORATE SOCIAL RESPONSIBILITY AND SKILLS DEVELOPMENT

- 3.1 For at least a 3 (three) year period following the Implementation Date, the merged entity in South Africa shall:

- 3.1.1 continue to operate all Public Interest initiatives and programs associated with the Target Firm in South Africa that are currently in place, subject to the provisions of those existing programs and considerations the Target Firm currently takes into account in the ordinary course. The Target Firm has disclosed the 2023 financial year expenditure on Public Interest initiatives to the Commission on a confidential basis; and
- 3.1.2 enhance the Target Firm's Public Interest initiatives and programs in South Africa to the value of no less than **R[CONFIDENTIAL]** per year by funding additional bursaries and hiring additional HDP employees in South Africa into roles which provide skills development.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 4.1 The Target Firm in South Africa shall circulate a non-confidential version of the Conditions to all employees in South Africa within 10 (ten) Days of the Approval Date.
- 4.2 The Target Firm shall inform the Commission in writing of the Implementation Date within 5 (five) Days of it becoming effective.
- 4.3 Within 45 (forty-five) Days of each anniversary of the Approval Date up until the third anniversary of the Implementation Date, the merged entity shall provide a suitable and appropriately detailed annual report to the Commission regarding compliance with the Conditions.
- 4.4 The Commission may request any additional information from the Merging Parties, which the Commission from time to time may deem reasonably necessary for purposes of monitoring the extent of compliance with these Conditions.

5. APPARENT BREACH

- 5.1 Should the Commission receive any complaint in relation to non-compliance with the above Conditions and otherwise determine that there has been an apparent breach of these Conditions, the breach shall be dealt with in terms of Rule 37 of the Tribunal Rules read together with Rule 39 of the Commission Rules.

6. VARIATION

- 6.1 The merged entity may at any time, and on good cause shown, apply to the Commission for any of the Conditions to be waived, amended or relaxed. Should a

dispute arise in relation to the variation of the Conditions, application may be made to the Tribunal, on good cause shown, for the Conditions to be lifted, revised, or amended.

7. GENERAL

- 7.1 All correspondence in relation to the Conditions must be submitted to the following e-mail addresses: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to the Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298