

Banks and insurers under fire

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The Competition Commission is gearing up to play hardball with banks and insurance companies, saying on Thursday that the days for talking were past and it had prioritised the financial services sector for "enforcement".



Photo: SA Breaking News

"We have done a lot of engagement work in the past with a view to changing behaviour. Some have done so and others have not. We have now taken the decision to prioritise enforcement," Makgale Mohlala, manager of the cartels division, said at a Bowman Gilfillan competition law conference in Johannesburg.

The commission, the powers of which will be bolstered by proposed amendments to the Competition Act, is locked in a legal battle with banks about alleged currency rigging by their traders.

A global clean-up still underway of the \$5-trillion-a-day foreign exchange market has netted regulators more than \$10bn in fines since 2013, according to Bloomberg.

"In a sideswipe at banks that filed exception applications in the case, meaning they had raised technical issues, Mohlala said: "Where respondents take on technical points, sometimes those points are being taken with the hope that the case will disappear. We are wanting to get to the merits and not get stuck on technicalities."

The competition tribunal will hear exception applications on July 30 in the case, brought against 23 financial institutions and 35 individuals, who are accused of colluding in online chat rooms to fix prices on rand-dollar currency trades.

The case, which dates back to April 2015, was referred to the tribunal in February 2017, but was met with a raft of exception applications as banks complained of insufficient detail of their wrongdoing.

The commission filed a further affidavit in December to deal with some of these exceptions. It also added five related-party entities to the 18 initial banks, which had been incorrectly excluded.

"We said at the beginning 'this is what you've done and how'", but banks complained that they were not given sufficient detail to answer the charges, Mohlala said. "So we decided let's supplement and go to the extent of saying what they were saying when they were colluding. We did not refer and then investigate."

The commission had always been in a position to provide this detail, but had initially decided it would be "overkill", he said.

It had settled only with Citibank. "We have rejected some settlements but I can't say who," Mohlala said, suggesting that other banks had approached the commission.

While Citibank paid a R69.5m fine to the commission, Barclays Capital, Barclays Bank plc and Absa have all applied for leniency.

These entities must co-operate with the investigation, which will draw material from court rulings in other countries, such as one against former Barclays trader Jason Katz, who is named in the commission's case.

Source: *Business Day*

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