

**COMPANIES TRIBUNAL**  
**REPUBLIC OF SOUTH AFRICA**

**Case Number CT00530ADJ2020**

**In the ex parte matter of:**

**The SA SME fund Ltd**

**Applicant**

**Registration Number 2016/3385/06**

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**DECISION (Reasons and Order)**

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**Presiding Member of the Tribunal: Lucia Glass**

- 1) The Applicant requests the Tribunal to make an order, for the postponement, of the Applicant's Annual General Meeting (AGM) to the 2 January 2021. The date falls within the period of 15 months from the date of the last annual general Meeting of the shareholders of the Applicant, being 1 November 2019.
- 2) The Applicant does not refer to any particular Section in the Companies Act 71 of 2008 (the Act,) under which it makes this application and under which the Tribunal has the necessary powers to make an order to postpone its AGM.
- 3) I have scrutinized the Act carefully for a Section empowering the Tribunal to make such an order, and it appears that this "type" of Application is made in terms of section 61(7) of the Act.

- 4) The Deponent to the Applicant's papers is Caryn Teresa Winter Identity number 6907170064083, who avers that she is the Company Secretary of the Applicant.
- 5) She avers that she is appointed in terms of sections 86 and 88 of the Act and has inherent authority to apply for the extension as she is responsible for the governance of the Applicant.
- 6) It is alleged that due to the outbreak of the COVID 19 pandemic in March 2020 and subsequent national lockdowns, the annual audit of the Applicant, for the year ended 29 February 2020 was delayed.
- 7) She avers, that as a result of the delay in the audit, the Independent auditors Report on the financial statement for the year ended 29 February 2020 has not yet been issued.
- 8) It is alleged that in order to provide the shareholder of the Company with sufficient time to review the items to be presented to shareholders at the annual general Meeting, and in light of the approaching holiday season, it is requested that an extension of time be granted for the Company to hold its annual General Meeting.
- 9) The facts of this case can only be weighed up, once it is established that the Tribunal has jurisdiction to preside over this matter. If the Tribunal does not have jurisdiction to make an order as requested, it will be unnecessary to determine the issues, and the Application must fail.

#### **APPLICABLE LAW AND EVALUATION**

- 10) Section 61 (7) of the Act provides that a **public company** (emphasis added) must convene an annual general meeting of its shareholders..... or within an extended time allowed by the **Companies Tribunal** (emphasis added).
- 11) The Applicant is a **public company** (emphasis added) which is allowed to apply to the **Companies Tribunal** for an extension of time to hold its AGM.

12) It is my humble view that the AGM could be held over the internet, Zoom or Teams, or any such like facility and perhaps this AGM needs to be arranged as soon as possible via the internet. It appears to me that this manner is the “new normal”.

**ORDER**

The postponement, of the Applicant’s Annual General Meeting (AGM) to the 2 January 2021 is granted.



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LUCIA GLASS

(MEMBER OF COMPANIES TRIBUNAL OF SOUTH AFRICA)

Dated this 11 December 2020