



Dewald van Rensburg &lt;dewaldvr@amabhungane.org&gt;

## Capitec commentary: Regiments involvement in state capture

1 message

Chandre Matlala &lt;Chandre@atmosphere.co.za&gt;

4 September 2019 at 16:36

To: "dewaldvr@amabhungane.org" &lt;dewaldvr@amabhungane.org&gt;

Hi Dewald

Please see below statement on behalf of Andre Du Plessis, CFO Capitec, relating to Regiments' involvement in state capture:

*There has been extensive reporting in the media regarding the involvement of Regiments and its shareholders, Litha Nyhonyha, Niven Pillay and Eric Wood in State Capture. It transpires from the court documents that the Transnet Second Defined Benefit Fund ("Transnet"), during the period that State Capture was rampant, decided to conclude agreements with Regiments, the outcome of which resulted in significant losses to Transnet. Transnet instituted court proceedings against Regiments to recoup these State Capture losses and have concluded a settlement agreement with the very parties implicated in State Capture, at the expense of Capitec. In fact, the beneficiaries of this settlement is the very parties who according to Transnet have been implicated in State Capture. According to the court documents, the proposed settlement amounts to a significant discount to Transnet's claims against Regiments, (and related parties implicated in the State Capture). Transnet now wants Capitec to pay the price for Transnet's mistakes.*

*Regiments is a significant shareholder in Coral to which company Capitec issued shares in 2007 with the sole purpose to give effect to an enduring broad-based black economic empowerment transaction. The consortium members behind Coral at the time were business leaders and they were led by experienced businessmen. The agreement was freely concluded on the basis that the shares held by Coral may only be sold to black persons to establish a lasting black-owner relationship with Capitec.*

*Prior to Transnet, Regiments and Coral concluding the settlement agreement, Capitec informed Transnet that the Capitec shares held by Coral can only be disposed to black persons and that Capitec's consent is required for same. Capitec was not a party to the settlement agreement between Transnet, Regiments and Coral. When Coral approached Capitec for its consent, Capitec considered Coral's request and rightly refused it. Should Capitec support the disposal by Coral of its Capitec shares to Transnet, Capitec would be waiving its contractual rights under its agreement with Coral, effectively resulting in Capitec agreeing to a forfeiture of the direct black ownership of these Capitec shares. This would be contrary to the rationale for the issue of the Capitec shares to Coral in 2007 and the basis on which the Capitec board sought shareholder approval for the transaction at the time.*

*The effect of Transnet and Coral's court actions is that persons and entities involved in State Capture will improperly benefit, since the settlement amounts to a significant discount to Transnet's claims against Regiments, and related parties implicated in State Capture – at the cost of Capitec's contractual rights.*

*The shares held by Coral in Capitec are further subject to restraint orders obtained by Transnet which remain in place and have not been set aside. Capitec has at all times indicated to Transnet and Regiments that it will not participate in any transaction which will be in contravention of the restraint orders.*

