



**NORWEGIAN SECURITIES DEALERS ASSOCIATION**

**RECOMMENDATION NO. 12**

**Conduct of due diligence investigations in connection with an application for admission to trading on Euronext Growth Oslo**

Determined by the board of the Norwegian Securities Dealers Association on 1 December 2020, with entry into force on 1 January 2021. Amended on 14 June 2022.

# **Conduct of due diligence investigations in connection with an application for admission to trading on Euronext Growth Oslo**

## **1 Introduction**

The regulations governing admission to trading on Euronext Growth Oslo require the Euronext Growth Advisor to ensure that sufficient financial and legal investigations (due diligence investigations; hereafter called "DD") of the company are carried out and to be responsible for assessing the scope of such investigations. The aim of these investigations is to reveal any factors of importance to the assessment of whether the shares are suitable for trading on Euronext Growth Oslo. In addition, the lead manager is responsible for ensuring that sufficient information about the issuer is provided in the information document, including risk factors relating to the issuer.

The mandate agreement between the issuer and lead manager should specify the name(s) of the Euronext Growth Advisor(s).

This recommendation provides more detailed guidelines for the conduct of DD in the case of an application for admission to trading on Euronext Growth Oslo. DD should be conducted prior to any associated share issue or reduction in shareholdings (hereafter called "Transaction"). The items to be assessed in order to determine the scope of the DD are stated in item 2.

Certain minimum requirements for factors that should be investigated as part of financial and legal DD are stated in items 3 and 4. In addition, the lead manager should consider whether there is a need for additional investigations of other factors, such as:

- The management's expertise
- Technical factors
- Commercial factors
- Environmental factors
- Tax factors

## **2 The scope of the DD – use of external independent advisors**

Independent DD of an issuer are always to be conducted in the case of an application for admission to trading on Euronext Growth Oslo. It is the Euronext Growth Advisor who is to assess the scope of the DD and give an account of the scope and result of the DD in an annex to the application form sent to Oslo Børs. The scope of both the legal and financial DD will depend on the Euronext Growth Advisor's knowledge of the company and need for information in order to carry out its obligations as a Euronext Growth Advisor, including the issues for assessment stated in items 2.1-2.3, 3 (legal DD) and 4 (financial DD). This means that the review of the company may in some cases have a not inconsiderable scope, while in special cases, where the Euronext Growth Advisor has in-depth knowledge of the company, it will not be regarded as just as necessary to have an extensive due diligence. The lead manager should consider the need for and

scope of DD right at the start of the process. An introductory meeting with the issuer and the hired DD advisors should be held to ensure a clear division of roles in the further process.

External advisors who conduct DD shall review the information document and transaction documents to ensure that the documents, and especially the risk factors stated in the documents, reflect material matters identified in the DD.

VPPF's recommendations for a declaration of completeness and bring-down DD call in the case of share issues should be used for share issues/reductions in shareholdings carried out in connection with a Euronext Growth Oslo listing.

The following factors should be given weight when considering the scope of the DD beyond the recommended minimum requirements stated in items 3 and 4:

#### 2.1 A narrower DD scope:

- The company has a licence from a public authority and is subject to public supervision (for example banks)
- The Euronext Growth Advisor knows the company well, for example based on previous collaboration with the issuer in similar or other types of transactions
- The issuer is well known in the market, and there is enough publicly available information on the company (for example, if the company's shares have been registered on the NOTC for at least three years, or the company is owned by an already listed company and reports to the market via this)
- The Euronext Growth Advisor has during the past year conducted DD in connection with a share issue or admission to trading on the NOTC or other trading venues, or in some other context, and no major changes have taken place since then.

#### 2.2 A wider DD scope:

- The company is not very well known to the Euronext Growth Advisor and/or the market
- Complex operations or corporate structure
- A material share of the operations is registered abroad
- A long time has elapsed since the last audited accounts were published
- Significant corporate events since the last audited accounts
- The Euronext Growth Advisor has limited knowledge of this sector

#### 2.3 A specially adapted DD scope

- A short history (in such a case, business-critical matters should be investigated more thoroughly)
- Pre-commercial operations (in such a case, the DD can have a greater focus on the business plan, contracts and verification of the commercial potential)

### 3 Legal DD

Advisors that conduct legal DD must be external advisors and may not be the company's lawyer or a legal advisor to the issuing company during the admission process.

If the issuer is a foreign company or has significant operations in a country other than Norway, the Euronext Growth Advisor should consider whether a foreign lawyer should assist in the review of the company.

The Euronext Growth Advisor should as a minimum ensure that the matters stated in items 3.1-3.5 are investigated. The list is not exhaustive, and the Euronext Growth Advisor, in consultation with the advisor conducting the legal DD, must consider whether further investigations are necessary in each individual case. Several of the items are based on Euronext Growth Oslo's admission requirements on the date of this recommendation, and if the admission requirements are changed, the items below must be amended correspondingly.

#### 3.1. The company's legal position

- Memorandum of incorporation and certificate of registration
- Articles of association, including that the issuer's operations comply with the articles of association

#### 3.2 Registration of the shares in a securities register

- Whether the shares are registered in an approved securities register with sufficient procedures for settling share transactions (VPS or another approved securities register)

#### 3.3 The shares

The investigations shall include:

- The requirement of a minimum share value on the date when the company is admitted to trading
- That the dispersion requirement has been fulfilled or will be fulfilled after the transaction
- Any restrictions on the voting right
- Any restrictions on sales
- Any different share classes
- Any shareholder agreements
- The ownership structure before and after the planned admission to trading
- Any share-based incentive programmes (options, warrants and suchlike)
- Any incentive schemes, etc, whose value or gain is linked to the company's shares and/or the shares' value (synthetic shares, etc)

#### 3.4 Material agreements, patents, licences, etc.

- A review of material agreements, patents, licences, etc.
- A review of (i) material agreements that the company is negotiating on the application date and (ii) any mergers/demergers that are being carried out in

connection with the admission to trading, in order to ensure that Oslo Børs is given the correct information about such agreements/corporate events

- A review of agreements entered into with owners, the board and management (and their respective associated parties) and other agreements that have not been entered into at arm's length

### 3.5 Management

- Whether there are persons in the management whose conduct has made them unfit
- Whether the management and major owners are independent of each other
- A review of the routines for handling information, both internal and external

### 3.6 Operations-related matters

- Public permits, licences, etc, that are relevant to the company's operations, and documentation relating to this (including, but not limited to, correspondence, orders, requirements, etc, from public authorities)
- Disputes that the company is involved in
- The company's guidelines for compliance with prevailing laws and regulations linked to anti-money laundering/anti-corruption

## 4 Financial DD

Advisors that conduct financial DD must be external advisors, and may not be the company's auditor or other professional persons in the same audit enterprise.

The Euronext Growth Advisor should as a minimum ensure that the following matters are investigated. The list is not exhaustive, and the Euronext Growth Advisor must consider whether further investigations are necessary in each individual case.

### 4.1 Equity and net liabilities

- The company's equity situation
  - Whether the book equity is satisfactory
- Balance sheet and off balance sheet liabilities (ensure that the liabilities are correctly reflected in the transaction documents)

### 4.2 Liquidity

- Liquid assets for at least one year's operations
  - Whether such assets can be found in the company or are to be contributed before admission to trading as a result of a share issue
  - Whether a new loan agreement has been entered into or a loan agreement has been renegotiated and signed by the parties

### 4.3 Accounts and interim reports

- Requirements for financial reports

- Quality of accounting information, including any adjustments made to previous figures
- Accounting principles, including whether financial reports have been issued in accordance with the provisions in current obligations and with relevant accounting standards, and whether the investor should be informed of special principles

#### 4.4 Management

- Expertise in the presentation of accounts – whether there is in-house expertise or an agreement with a third party to present the accounts in accordance with the law