



Committee of European Securities Regulators
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Deres ref

Vår ref (bes oppgitt ved svar)
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PROSPECTUS DIRECTIVE

ANNEX A – CORE EQUITY REGISTRATION BUILDING BLOCK-V.A., QUESTION NO 89 – “DIRECTORS AND SENIOR MANAGEMENT PRIVACY”

The Norwegian Data Inspectorate would like to make a statement concerning paragraph V.A. and the thereby proposed content of prospectus as regards data and information about directors and senior management.

It is not within the powers of the Data Inspectorate to assess whether the information in question will be material as regards an investor's decision to invest. However, the assessment of whether provision of such information will be in breach of privacy laws within the jurisdiction of Norway is clearly within the powers of the Inspectorate.

Provision of such details as proposed might be in breach of general principles of privacy stated in the Norwegian Personal Data Act, see especially section 11. The Data Inspectorate would like to stress the requirement of satisfactory quality of the data, which means that the personal data which are being processed must be adequate, relevant, not excessive in relation to the purpose of the processing, accurate and up-to-date. In this case information regarding the past of the persons in question will be disclosed. The older information, the greater is the risk that the information no longer is sufficient and correct. There is of great importance that the information provides a complete picture.

The right to ask for character references is in Norway strictly restricted. Without statutory basis, one cannot even ask for this kind of information. Bearing this in mind, it is clear that when collecting the relevant information in question, it will appear as extremely difficult to fulfill the requirement of satisfactory quality of the data, especially when it comes to accuracy. This will also be the case as regards data which alone do not establish a serious invasion of privacy, but compiled without allowing for this requirement might do so. There are in no Norway no such directories where these kind of data is registered, which means that the collection of data must be done on a case to case basis, from different and random sources. There will not be any means

ensuring that the data collected do possess satisfactory quality, thus conclusions might be ill grounded and people might be wrongly accused for legal offences.

Further, rehabilitation is a fundamental principle in Norwegian criminal law, in this context this will mean that once a sentence is served, one is as a main rule supposed to be assessed as equal to other human beings. Thus is access to information about an individual's criminal history strictly restricted. When information concerning any convictions in relation to fraudulent offences might be collected without any retrospective time limit, the practice will be settled without regards to this principle.

In Norway there are a complexed set of rules as far as credit reporting is concerned. The rules are partly based in the provisions of the Personal Data Act and in licenses granted from the Data Inspectorate. These rules provide for a right to make credit reports regarding both individuals and companies when an objective need is justified. Further there are strict rules for what type of data which can be registered and for how long. Bearing this in mind, the Data Inspectorate finds that the need for information of investors offering securities will be sufficiently ensured by benefit from the databases of the already established credit reporting companies.

As far as data concerning the area of knowledge, relevant experience and expertise, the threat to the privacy of the people concerned is not assessed to be severe.

Yours sincerely

Georg Apenes
Director General

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