

To issuers at Oslo Børs, Euronext Expand and Euronext Growth

Oslo, 8 June 2021

## Regarding compliance with the issuer obligations under MAR

### 1 Introduction

The EU market abuse regulation ([MAR](#)) entered into force in Norway on 1 March 2021, which led to several changes to the issuer rules on Oslo Børs, Euronext Expand and Euronext Growth. In this connection, certain of Oslo Børs' previous areas of responsibility were transferred to the Norwegian Financial Supervisory Authority ("**Finanstilsynet**"), which according to MAR will, among other things, supervise compliance with the rules on primary insiders' notification of transactions. However, Oslo Børs still has delegated authority to supervise compliance with the issuers' disclosure obligations, and to receive lists of primary insiders and their close associates through the issuer portal, NewsPoint.

In the months following the implementation of MAR, Oslo Børs has made some experiences that it wants to share with the issuers, primarily as a reminder to the issuers to comply with applicable regulations.

### 2 Primary insider register and notification obligations

Upon the entry into force of MAR, the rules on primary insiders and their notification obligations were changed significantly. Two of the most significant changes are that bond issuers on Oslo Børs now are subject to these rules, and accordingly are required to identify and register primary insiders and their close associates. Furthermore, the scope of those who are defined as primary insiders<sup>1</sup> and close associates has been changed, and all close associates of a primary insider must be entered in the primary insider register, regardless of whether the person in question owns financial instruments in the issuer.

Notifications of primary insider transactions shall be sent both to the relevant authority (Finanstilsynet for issuers registered in the Norwegian Register of Business Enterprises) and to the issuer in accordance with the new format and content requirements that follow from the regulations<sup>2</sup>. Finanstilsynet's electronic solution for reporting through Altinn.no is set up in accordance with these requirements. The obligation to publish notifications of transactions and to keep a primary insider register applies to all issuers listed on Oslo Børs, Euronext Expand and Euronext Growth, including foreign companies.

Prior to the implementation of MAR, Oslo Børs sent out an [information letter](#) in January 2021 to all issuers listed on Oslo Børs' trading venues with information on the expected changes to the issuer's obligations as a result of MAR. The issuers were also encouraged to identify primary insiders and their close

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<sup>1</sup> Persons discharging managerial responsibilities ("primary insiders") and close associates as defined in MAR article 3 (25) and (26)

<sup>2</sup> Commission Regulation 2016/523

associates. This information letter was followed up with consultation letters<sup>3</sup> in February 2021 which included detailed information about the changes to Oslo Børs' own rules, with clear indications of the new obligations the issuers would be subject to with effect from 1 March.

Furthermore, Finanstilsynet, which pursuant to MAR supervises compliance with the rules on primary insiders' notification obligations, has published supplementary information on the issuers' obligations under MAR on its own [websites](#). Oslo Børs and Finanstilsynet have also held seminars and electronic courses on MAR, so that information about the regulatory changes must be considered widely distributed to market participants prior to the entry into force.

Despite the above, Oslo Børs experiences that a number of issuers are still not complying with the new obligations under MAR. Oslo Børs, which handles the primary insider register through NewsPoint experiences, among other things, that several bond issuers have not identified or registered their primary insiders and close associates, and that several issuers have not updated the register of primary insiders and close associates in line with the new requirements. Furthermore, Oslo Børs observes that a large proportion of issuers still publishes notifiable transactions in the same format as before the entry into force of MAR, which does not satisfy the new requirements as specified in current regulations<sup>4</sup>.

Violations of the primary insiders' notification obligations and the obligation to keep a primary insider register may be sanctioned by Finanstilsynet in accordance with chapter 21 of the Securities Trading Act. In the future, Oslo Børs will increase its focus on the issuers' compliance with the regulations and will forward cases to Finanstilsynet if there is a suspicion of violations. It is Oslo Børs' understanding that Finanstilsynet also will have an increased focus on follow-up of non-compliance with MAR. Issuers who have not established a satisfactory register of primary insiders and their close associates in NewsPoint, are thus requested to rectify the situation immediately.

### **3 Deadline for notification of transactions made by primary insiders and their close associates**

Upon the entry into force of MAR, the deadline for publishing notifications on transactions made by primary insiders and their close associates was changed from "*immediately (...) and no later than by the opening of the regulated market the next day*" to "*promptly and no later than three business days after the date of the transaction.*", cf. Article 19 no 1.

Oslo Børs experiences that some issuers interpret the new wording to mean that the normal deadline for reporting to the issuer and Finanstilsynet is three working days. Oslo Børs would like to emphasize that Finanstilsynet assumes that the deadline for primary insiders and close associates to report is "promptly", and that the deadline of three working days is to be regarded as an absolute deadline in case of any special circumstances.

It follows from MAR article 19 (5) that issuers shall notify their primary insiders in writing of the obligations under MAR. In continuation of this, Oslo Børs considers it sensible that issuers engage in the training of their primary insiders about the duties imposed on persons in such positions. It is also emphasized that violations of the regulations can affect the issuer's reputation negatively.

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<sup>3</sup> Consultations: Shares and equity certificates on Oslo Børs and Euronext Expand [here](#), Bonds on Oslo Børs [here](#) and Shares and equity certificates on Euronext Growth [here](#).

<sup>4</sup> Commission Regulation 2016/523

#### 4 Notification to Oslo Børs when deciding delayed disclosure

Upon the entry into force of MAR, the issuers' notification obligation in relation to decisions on delayed disclosure of inside information was changed, and section 5-1 of the Securities Trading Regulation stating that issuers shall promptly notify Oslo Børs of any decision of delayed disclosure of inside information, was repealed. Pursuant to MAR, an issuer is required to inform the competent authority (Oslo Børs) in writing that disclosure of the information was delayed immediately *after* the information is disclosed to the public.<sup>5</sup>

However, Oslo Børs has chosen to continue the previous arrangement of notification of delayed disclosure through Oslo Børs' own rules, so that an issuer is still required to, on its own initiative, promptly notify Oslo Børs of any delayed disclosure of inside information. The background for the continuation of this rule, is that it enables the market surveillance department at Oslo Børs to intensify monitoring of the relevant financial instrument and be able to identify any leakages prior to disclosure of the inside information. This rule does not apply to delayed disclosure of financial information in annual reports, half-yearly reports and quarterly reports published in accordance with the issuer's financial calendar.

Oslo Børs nevertheless experiences that some issuers after 1 March 2021 have only complied with the rules in MAR and have not been aware that the obligation to notify Oslo Børs at the time of the decision has been continued in Oslo Børs' own rules. This despite the fact that Oslo Børs has emphasized the continuation of the notification obligation on several occasions and that this is explicitly stated in the current issuer rules.

Oslo Børs will thus remind issuers to continue to notify Oslo Børs at the time the decision on delayed disclosure of inside information is made in line with previous practice, please refer to [Oslo Rule Book II \(Issuer Rules\)](#) section 4.2.1.2 (3) and 6.2.1.2 (3) for issuers of shares and bonds, [and Euronext Growth Rulebook Part II](#) section 3.9.2 (3) for issuers on Euronext Growth. Violations of the duty to notify Oslo Børs may result in sanctions.

For the sake of good order, Oslo Børs emphasizes that issuers also must submit a written notification when publishing inside information that has been subject to delayed disclosure. This must be done through the module for such notification in the issuer portal NewsPoint. Oslo Børs further points out that the obligation to send such notification also applies to the disclosure of inside information regarding financial information in financial reports, in contrast to the obligation to notify Oslo Børs at the time of the decision, where there is an exemption from this.

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<sup>5</sup> MAR article 17 no. 4 third subparagraph and article 4 no 2 of Commission Regulation 2016/1055

## **5 Concluding remarks**

Oslo Børs finds it problematic that several issuers have still not familiarized themselves with the new regulations or complied with them, and will in future follow a stricter line in enforcing non-compliance with the issuer's obligations under MAR.

Yours sincerely,  
OSLO BØRS ASA

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