

EVERY ASA

Your ref:

Our ref:

Date: 15 June 2015

EVERY ASA – decision to refuse EVERY’s application for delisting from Oslo Børs

1. Introduction

EVERY ASA ("EVERY" or the "Company") in a letter dated 21 May 2015 applied for delisting of the Company’s shares from Oslo Børs. The basis for the application was a resolution passed at an extraordinary general meeting held on 23 March 2015, at which a resolution to apply for delisting of the Company’s shares from Oslo Børs was passed with the support of 88.29% of votes cast.

EVERY has been listed on Oslo Børs since 1999. The Company is not listed on another marketplace. EVERY is one of the leading IT groups in the Nordic region. EVERY’s head office is in Oslo, and the Company has around 10,000 employees and reports annual turnover approaching NOK 13 billion.

2. Background

EVERY was the subject of an acquisition in the first six months of 2015. Lyngen Bidco AS ("Lyngen") put forward a voluntary offer in December 2014. Lyngen is owned by Apax, a leading private equity company. It operates globally and has more than 30 years of investment experience. Apax has advised funds that total over €30 billion in managed capital. Funds advised by Apax invest in companies across four global sectors: Consumer, Healthcare, Services, and Technology & Telecommunications. Apax has invested more than EUR 1 billion in IT service companies.

As a result of the voluntary offer, Lyngen acquired approximately 88% of the shares in EVERY in mid-March 2015. On the same day that Lyngen waived the conditions of the voluntary offer, it called shareholders to two extraordinary general meetings of EVERY. The resolutions that were proposed arose as a consequence of the Company being about to get a new majority shareholder. The extraordinary general meetings were held on 23 March. Lyngen then at the end of March put forward a mandatory offer. The offer period for the mandatory offer ended at the start of May. A proportionately small number of shares were acquired as a result of the mandatory offer.

The following provides a summary of the events related to the acquisition of EVERY:

- 27.08.2014. EVERY announces that it is considering strategic opportunities, including a sale of the Company. *Stock Exchange Announcement - EVERY considers strategic opportunities*
- 08.12.2014. EVERY announces that it has entered into a transaction agreement with Lyngen Bidco regarding the sale of the shares in the Company and that a voluntary offer will be put forward.

The announcement states that shareholders representing 73.85% of the shares have undertaken to accept the offer in advance (Norway Post, Telenor Business Partner and the Government Pension Fund Norway). *Stock Exchange Announcement – Recommended cash offer by funds advised by Apax to acquire 100% of the shares in EVRY.*

- 16.12.2014. Lyngen announces the voluntary offer. Completion of the offer is contingent on certain conditions being met or waived, including that an acceptance rate of 90% is achieved and that the transaction is approved by the competition authorities. The offer price is NOK 16. *Offer document for voluntary offer dated 16 December 2014.*
- 21.02.2015. Publication of a statement on the offer issued by SEB as an independent expert. *Stock Exchange Announcement: Recommendation by an independent competent advisor.*
- 25.02.2015. The offer period expires (after having been extended four times). Lyngen announces that it has received acceptances for approximately 88% of the shares and voting rights in the Company. *Stock Exchange Announcement - Lyngen Bidco AS - preliminary result of the voluntary offer to acquire all shares in EVRY ASA*
- 02.03.2015. Lyngen announces that it is waiving the condition of receiving acceptances for 90% of the shares and voting rights in the Company, and that the offer will be settled. *Stock Exchange Announcement - Lyngen Bidco AS - Waiver of condition of minimum acceptance level and settlement of the voluntary offer.*
- 02.03.2015. EVRY gives notice of two extraordinary general meetings, both to be held on 23 March. *Stock Exchange Announcement - EVRY – Notice of two extraordinary general meetings.* At the first general meeting, a new board is to be elected that will be nominated by the new majority shareholder. The second general meeting will address a proposal to pay a dividend and a proposal to apply for delisting. The background for the dividend is repayment of a short-term loan by the majority shareholder.
- 16.03.2015 – Lyngen completes settlement of the voluntary offer, after which it owns approximately 88% of the shares. *Stock Exchange Announcement - Lyngen Bidco AS - Settlement of voluntary offer completed.*
- 23.03.2015. The two extraordinary general meetings resolve to elect a new board, to pay a dividend, and to apply for delisting. *Stock Exchange Announcement – EVRY: Minutes from the general meeting. Stock Exchange Announcement – EVRY: Minutes from the general meeting.*
- 24.03.2015 – The Board of Directors of EVRY appoints a new CEO. *Stock Exchange Announcement - Björn Ivroth named new CEO of EVRY.*
- 27.03.2015. Lyngen puts forward a mandatory offer. The offer price is NOK 12.24. (This is equivalent to the voluntary offer price of NOK 16 adjusted for the dividend of NOK 3.76). *Mandatory offer – offer document dated 27.03.2015.*
- 21.04.2015. Publication of a statement on the mandatory offer issued by SEB as an independent expert. *Stock Exchange Announcement - EVRY: Independent statement on mandatory offer*

- 05.05.2015. The offer period for the mandatory offer expires (after having been extended once). Lyngen announces the preliminary results of the offer, which is that it has received acceptances equivalent to 0.18% of the total shares - (1.44% of the shares covered by the offer). *Stock Exchange Announcement - Lyngen Bidco AS announces preliminary results of mandatory offer for EVRY ASA.*
- 08.05.2015. Lyngen announces the final results of the mandatory offer. *Stock Exchange Announcement - Lyngen Bidco AS announces final results of mandatory offer for EVRY ASA.*
- 21.05.2015. EVRY submits application for delisting from Oslo Børs.
- 01.06.2015. EVRY announces changes to its executive management team (new CFO and four new executive vice presidents). *Stock Exchange Announcement - EVRY is making changes to its Executive Management Team*

The Company has in its application for delisting put forward the following matters as the principal grounds for its application for its shares to be delisted:

- The Company is no longer suitable for listing.
- The Company has one large shareholder that owns 88% of the shares and voting rights. There is no prospect of the spread of ownership increasing.
- The extraordinary general meeting resolved to apply for delisting. Only two shareholders voted against the proposal. These are institutional shareholders that do not have the same need for the shares to be listed as smaller shareholders.
- The Company has no need or intention to use its listing in order to access capital.
- There is limited liquidity in the Company's shares, which further reduces the need for listing and may lead to insufficient pricing with the potential for small trading volumes to influence the share price.
- The Company is not covered by analysts and is the subject of little or no interest in the capital markets.
- The shareholders have been given the opportunity to exit their investment through the voluntary and mandatory offers made by Lyngen.
- The number of shareholders in the Company has decreased significantly compared to the situation before the Company was acquired.

3. The outcome of the extraordinary general meeting of 27 March 2007

As a consequence of the restriction set out in Section 6-8, paragraph 5, of the Securities Trading Act, Lyngen was only able to use the votes associated with one third of the total shares in the Company. The provision is as follows: *"Until such time as a bid is made or sale effected, no other rights in the offeree company may be exercised in respect of the portion of the shares which exceeds the mandatory bid threshold than the right to take out dividend on the shares and to exercise pre-emption rights in the event of an increase of capital."* Such a mandatory offer was made by Lyngen on 27 March.

37.76% of the voting capital was represented at the extraordinary general meeting, and Lyngen was able to vote for only 33.33% of the voting capital.

The following shareholders voted for delisting:

- Lyngen Bidco AS (89,112,993 shares)
- Klas Forslund (1,527 shares)
- Arvid Hefte (88 shares)
- Dariush Massoumi (785 shares)

The following shareholders voted against the proposal to apply for delisting:

- Polygon European Equity Opportunity (7,711,296 shares)
- Blackwell Partners (4,105,807 shares)

The Company has explained that the proportion of votes in favour of delisting would have been 95.21% if Lyngen had been able to use the votes associated with all its shares.

4. Information received from shareholders and the Norwegian Shareholders Association (Aksjonærforeningen)

Oslo Børs has received correspondence from Polygon Global Partners LLP as follows:

- 20.03.2015 – Letter. The letter points out that Polygon Global Partners is a shareholder with a 4.4% ownership interest, and comments inter alia that the election of the new board is not in accordance with the relevant recommendation in the Norwegian Code of Practice for Corporate Governance. The letter also emphasises the significance of the Company continuing to be listed in terms of how this ensures fair treatment for minority shareholders.
- 27.03.2015 - Letter. The letter includes comments on the price of the offer and on Apax's conduct, and that there was significant opposition to delisting at the general meeting. The letter also argues against the Company's delisting.
- 29.04.2015 – Letter. The letter states that the company has engaged Computershare to carry out a survey of shareholders to gather their views on delisting. It states that of the 1,212 EVRY shareholders who were asked the question about delisting between 16 and 28 April 2015, 208 replied, and that 200 of these were against delisting, while 8 were in favour. A statement from Computershare confirming this was attached to the letter.
- 04.05.2015 - Email. The email states that of the 273 shareholders in total who had replied to Computershare, 258 opposed the delisting, while 15 were in favour.
- 26.05.2015 – Email. The email states that there are 650 minority shareholders in the Company, and that 205 of these had answered Computershare, with 201 against the delisting. The email additionally made the following point: *"It is interesting to note that 72 other shareholders who had earlier indicated to Computershare their opposition to the delisting then apparently elected to accept the mandatory offer (and did so at a price below that at which EVRY shares are currently trading). Our agents have contacted a significant number of shareholders who accepted the mandatory offer; two of the key reasons for their decision to sell were (1) concern about the proposed delisting and (2) a mistaken belief that a "mandatory" offer meant that they had a mandatory obligation to accept the offer. This investor concern over the delisting reinforces our*

opposition to the delisting application – which we understand has now been filed with the exchange. We hope that a number of these shareholders will return to the register if the delisting does not proceed."

In addition, on 20 May 2015 Oslo Børs received a copy of an email from the Norwegian Shareholders Association (Aksjonærforeningen) sent by Bernt Bangstad to the Chair of EVRY's Board of Directors. The email received by Oslo Børs includes a copy of an enquiry sent to EVRY on 19 May 2015 that asks about incorrect information contained in the notice of the annual general meeting regarding the composition of the election committee.

5. Legal background

The Stock Exchange Act stipulates at Section 25, first paragraph:

"A regulated market may resolve that a financial instrument be suspended from listing or removed from listing if it no longer satisfies the regulated market's business terms or rules, or if other special reasons so warrant. However, a regulated market cannot suspend from listing or delist a financial instrument if this can be expected to cause material disadvantage for the owners of the instrument or for the market's duties and function."

Furthermore, the *Continuing Obligations of Stock Exchange Listed Companies* stipulates at Section 15.1, fourth paragraph:

"The company may apply to Oslo Børs to have its shares delisted if a general meeting has passed a resolution to this effect with the same majority as required for changes to the articles of association. Oslo Børs makes the final decision on delisting."

The legal considerations that apply to removal from listing following an application by a listed company are considered in Section 4.2.1 of Oslo Børs's report on the case "24seven Technology Group ASA – rejection of an application for removal of the company's shares from listing on Oslo Axess (Decision dated 21.03.2013)", as published in Decisions & Statements 2013 p. 56 (in Norwegian).

The provision on delisting in Section 25, first paragraph of the Stock Exchange Act dates from 2007. The decision made by Oslo Børs in respect of the 24seven case makes it clear that the practice applied prior to this date continues to be relevant.

Oslo Børs has demonstrated through its practice which considerations are considered relevant for evaluating whether an application for removal from listing should be approved. The starting point is an assessment of the balance between the company's interest - as represented by delisting serving the interests of the majority of shareholders - and the interests of minority shareholders that will be served by the listing continuing. Oslo Børs has applied a strict approach in the sense that it has traditionally attached relatively great weight to the interests of minority shareholders and the disadvantages that delisting would cause them. Importance has also been attached to considerations of market integrity and confidence in the market when considering whether to approve an application for delisting. In this respect, the question whether a company no longer satisfies all the requirements for listing has been seen as one of a number of relevant matters in the overall assessment of an application for delisting.

6. Evaluation by Oslo Børs of the application for delisting

6.1 The interests of the Company

The Company's application for delisting is a result of the resolution approved at the extraordinary general meeting held on 23 March at which 88.29% of the voting share capital represented voted to apply for the Company's shares to be delisted from Oslo Børs. At this time, Lyngen had triggered the duty to make a mandatory offer as a result of the completion of the voluntary offer on 16 March. Since the mandatory offer had not been made at the time of the extraordinary general meeting, Lyngen could only vote for one third of the Company's total shares. Lyngen became entitled to vote and exercise the other shareholder rights with effect from 27 March, this being the date on which it made a mandatory offer to holders of shares in EVRY. If Lyngen had been able to vote for all the shares it owned at the time, it is overwhelmingly likely that the proportion of votes cast in favour of delisting at the extraordinary general meeting would have amounted to 95.21%.

It is apparent that only two shareholders voted against delisting at the extraordinary general meeting, namely Polygon European Equity Opportunity Master Fund and Blackwell Partners LLC. Both these shareholders must be assumed to be professional market participants that are well able to protect their interests. In its consideration of previous cases, the Board of Oslo Børs has attached some importance to the type of shareholder that has voted against delisting.

The extraordinary general meeting attracted only limited participation - six shareholders participated in the voting.

The Company has pointed out that only very few shareholders participated in the extraordinary general meeting, and that only the two previously mentioned shareholders voted against the resolution. The Company considers this to indicate that there was no real objection to delisting by minority shareholders. EVRY makes the point that shareholders were well-informed about the proposal for delisting, both through the notice calling the meeting and the offer document issued by Lyngen.

Given the low level of participation at the extraordinary general meeting, it is difficult to conclude either that there was clear support or clear objection from minority shareholders for the proposal for delisting.

In respect of the notice calling the meeting, it is noted that the notice did not provide any further justification for the possible delisting, nor did it provide any explanation of the consequences. The notice calling the meeting provides the following information on the background for the proposal at section 5:

"In conjunction with the Offeror acquiring qualified control over the Company, it does not deem the Company suitable for a listing on Oslo Børs. It has thus requested that the Board proposes for the Extraordinary General Meeting to consider a resolution to apply for a delisting from Oslo Børs."

In the offer document for the voluntary offer, Lyngen provided the following information in respect of delisting:

"The Offeror intends to apply for a delisting of the EVRY Shares from Oslo Børs following completion of the Offer.

A proposal to delist the EVRY Shares requires the approval of a majority of at least 2/3 at the general meeting of the Company. Oslo Børs may reject an application to delist the EVRY Shares, or it may decide on its own initiative to have the EVRY shares delisted."

It is difficult to attach any particular weight to the activity carried out via Computershare following the extraordinary general meeting since it must be assumed that shareholders who wished to express their support for, or opposition to, the proposal for delisting should have made their views known by means of the extraordinary general meeting.

EVRY also refers to the low level of liquidity in its shares. While it is the case that liquidity in the shares is low, it is not particularly low by comparison with other companies listed on Oslo Børs. Lyngen owns 88% of the Company's shares. As of 19 May, 641 minority shareholders were registered in VPS, and 375 of these hold shares worth in excess of NOK 10,000. The Company accordingly does not satisfy the requirements for spread of ownership and the number of shareholders stipulated in the Listing Rules, but it must nonetheless be assumed to have a relatively well spread ownership structure. The Company's market capitalisation is currently around NOK 4.1 billion. The market capitalisation is accordingly well in excess of the minimum requirement for listing on Oslo Børs (NOK 300 million), and this together with the relatively well spread ownership structure should mean that there is just as good an opportunity for liquidity in its shares as is the case for many other companies listed on Oslo Børs. 90,075 shares were traded during the period 11 May 2015 to 11 June 2015, representing total value of NOK 1,333,104. The volume-weighted average share price for the period (vwap) was NOK 14.79. With the exception of just a few minutes on some days, there have been orders in the order book at all times (buy orders and sell orders) which have provided a price picture for the share. The spread (difference in the order book between best buyer and best seller) has largely been around NOK 0.60 or lower during this period. In total 15 member firms have participated in carrying out trades. The highest and lowest share prices during the period were NOK 15.50 and NOK 14.40 respectively. The average daily volume of trading was 4,094 shares, equivalent to a daily average of NOK 60,595.

In respect of the Company, delisting may make it more difficult to raise new capital. However, EVRY has indicated that it does not consider it desirable to continue to be listed, and that the Company's financing requirements can be satisfied from sources other than issuing shares in a regulated market.

The Company has pointed out that shareholders have been offered an exit opportunity that very many shareholders, representing a large proportion of the share capital, chose to accept. Through its two offers, Lyngen acquired 88% of the Company's shares. The Company states that during the course of the voluntary offer the number of registered shareholders fell from 3,444 to 1,255, and that during the course of the mandatory offer this fell further from 1,225 to 641. Of the 641 remaining shareholders, 375 own shares worth less than NOK 10,000 (based on a share price of NOK 15.00 on 19 May). The offers were recommended by SEB, which issued statements on the offers as an independent expert. The offeror's advisers have taken steps to make shareholders aware of the offers through text messages to mobile phone numbers, telephone conversations and letters.

The Company is not in breach of any listing requirements other than the requirements for free float and spread of ownership. A number of companies are listed on Oslo Børs and Oslo Axess where changes in

the ownership structure following admission to listing have meant that the company no longer satisfies these particular listing requirements. Liquidity in the Company's shares is low, but it is not at such a low level that this in itself might mean that the Company is not suitable for listing. Oslo Børs is not aware of any information that indicates that the Company is in breach of any continuing obligations or that there are any other circumstances that might mean that the Company is not able to carry out its duties as a stock exchange listed company.

Oslo Børs has approved delisting in three cases where there was a relatively similar percentage split of voting for/against delisting, namely Kristiansand Dyrepark ASA¹ (85% / 15%), Fosen ASA² (87.6% / 12.4%) and Norman ASA³ (87.57% / 12.43%). However, in all these cases there were other considerations that supported the case for delisting and that attracted material weight in reaching the decision, including that the company had been subject to major changes that resulted in breaches of the listing requirements, that the company had a locked ownership structure, that there was a prior takeover bid, that a merger was conditional on delisting, etc. On the other hand, in the case of the decision by the Board of Oslo Børs on Kosmos AS⁴, an application for delisting was refused even though the company's general meeting had approved the application with 88% of votes in favour and 12% of votes against, and despite the fact that the company was in breach of listing requirements. In this case, all the minority shareholders present at the meeting voted against delisting. The company had over 5,000 shareholders, of which 495 held at least one round lot of shares.

As mentioned above, Oslo Børs takes the view that in a situation where a company cannot justify an application for delisting on the basis that the company has undergone changes that have resulted in a breach of the listing requirements or on the basis of equivalent special circumstances, there must be some additional justification if the application is to be approved. The background for this approach is that shareholders who have invested in the company will be less likely to expect delisting in such circumstances. Oslo Børs considers it particularly important in such cases to take into account the interests of minority shareholders that are served by continuation of the company's listing.

6.2 *Interests of minority shareholders*

If the Company is delisted, its shareholders will lose the protection that is provided by stock exchange legislation and securities legislation and the supervision associated with this. The rules of the Public Limited Liability Companies Act would give the shareholders a certain amount of protection were the Company not to be listed, but in overall terms the protection offered would be weaker.

Lyngen and Apax have provided little information about their plans for their investment in EVRY. It is notable that EVRY's board of directors was replaced with new members nominated by Lyngen as quickly as was possible. The following day the new board appointed a new CEO. In June changes were made to the executive management team (appointment of a new CFO and four new executive vice presidents). In a situation in which changes are being made to a company that are initiated by a new principal owner, the rules contained in stock exchange legislation and securities legislation that require companies to provide ongoing and periodic information will be of particular benefit to minority shareholders.

¹ Decisions and Statements 2004 p. 63

² Decisions and Statements 2008 p. 26

³ Decisions and Statements 2009 p. 46

⁴ Decision dated 30 April 1991

The shareholders will also lose the organised trading apparatus and transparency of trading that are brought by listing. Delisting would additionally disadvantage shareholders in that it can only be expected to reduce liquidity in the shares further.

Shareholders may be subject to official or internal rules that prevent them from owning unlisted shares. Oslo Børs has not received information that gives it reason to think that this applies to any shareholders in the Company.

The two shareholders that voted against the proposal for delisting, namely Polygon European Equity Opportunity Master Fund and Blackwell Partners LLC, are institutional investors. Approximately 12% of the shares in EVRY are owned by parties other than Lyngen. Polygon European Equity Opportunity Master Fund and Blackwell Partners LLC together own approximately 6% of the shares. The remaining 6% of the shares are spread among approximately 650 shareholders. Oslo Børs has previously stated that when a company is delisted institutional investors should be in a better position to exercise their rights than minority shareholders, namely in the case of the delisting of Kristiansand Dyrepark ASA and in the case of the delisting of Fosen ASA. Accordingly, the interests of institutional shareholders were not the determining factor in these two cases. The starting point cannot, however, be that an institutional investor's interest in listing continuing should be ignored, even if the amount of importance attached to institutional investors is somewhat less than that attached to other, less professional, investors.

A voluntary and a mandatory offer have been made, and consequently shareholders have had the chance to exit their investment in the Company. The shareholders also had access to an external assessment of the offer thanks to the statements on the offers issued by SEB as an independent expert. The Company's shareholders had every opportunity to decide to refuse the offers that were put forward, which was the course of action taken by a significant number of shareholders.

EVRY has a significant number of shareholders. As of 19 May 2015 the Company has a total of 651 registered shareholders (including nominee accounts). 266 of these shareholders hold shares worth in excess of NOK 10,000 (based on a share price of NOK 15.00 on 19 May). The total value of the shares not owned by Lyngen is approximately NOK 480 million. Both the number of shareholders in itself, and the number of shareholders who have investments of a certain size, mean that EVRY should not be delisted. The situation would be worse for a significant number of small shareholders if EVRY were delisted. Considerations of market integrity and confidence in the market also mean caution is required in connection with delisting since the Company's ownership is so well spread.

Having considered the reasons that support delisting the Company and weighed these against the interests of minority shareholders, Oslo Børs has not found it possible to approve the application for removal from listing. Oslo Børs has in particular taken into account the relatively large number of shareholders in the Company who decided not to sell their shares to Lyngen. The interests of these shareholders will best be served by the listing continuing. Account was also taken of the proportion of the shares that voted against the delisting (88.29% of the votes cast were in favour of delisting, 95.21% if the largest shareholder had been able to use all the votes associated with all its shares). Moreover in this case the Company cannot justify delisting on the basis of breaches of the listing requirements or other special circumstances.

Oslo Børs is of the view that approving the application for delisting in this case would be inconsistent with the legal criteria for delisting as stipulated at Section 25 of the Stock Exchange Act, and with the established practice of Oslo Børs in connection with the delisting rules and the discretionary judgement that these entail.

7. Decision

The application made by EVRY ASA for the Company's shares to be removed from listing is refused.

The decision can be appealed to the Stock Exchange Appeals Committee, cf. Stock Exchange Act, Section 40. Any appeal must be submitted within two weeks, cf. Stock Exchange Regulations, Section 37.

Best regards
OSLO BØRS ASA

Øivind Amundsen
EVP Primary Market and Legal Affairs

Lars Jacob Braarud
VP Listing