IPOs IN DENMARK

“

Everyone in Denmark – business leaders, investors, investment bankers, political decision makers and Danes in general – want a healthy, active IPO market for Danish companies in Denmark. With the book we wish to contribute hereto.

”

PREFACE

Denmark needs to jump start growth for the small and medium-sized companies that form the backbone of our industrial structure. At the same time we have numerous well-organised start-ups that represent Denmark's future. That takes new equity. Why not from the stock market!

The Danish stock market has undergone a revitalisation and attracted significant political attention following a number of tough years since the beginning of the financial crisis. Major Danish companies in particular have received a warm welcome on the stock exchange, and recently we have also seen medium-sized and even very small companies conquer the Danish First North market. This trend must be reinforced as companies benefit from having access to new equity and Danish society at large benefits from the value created staying within the borders of Denmark.

It is important for Denmark that not only the major companies owned by private equity funds use the stock exchange. Denmark's small, medium-sized companies and start-ups play a decisive role in terms of growth, and they absolutely need more equity to finance this growth.

So, why not turn to NASDAQ Copenhagen for a capital injection? Actually, this is what the stock exchange was originally and still is intended for.

With this book, we wish to make the IPO process easy to understand and manageable. There are far too many myths about how difficult, time-consuming and expensive an IPO is.

With this book in hand, all well-managed, interesting Danish companies will be able to plan their way to the stock exchange in a professional and structured manner and at the same time make their companies, managements as well as future and existing shareholders happy.

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INDEX

Special glossary and terminology are used to describe the stock market and IPO process. Some of the most common expressions and concepts are listed and explained on pp 130 - 134.

In June 2014, LETT law firm (now DLA Piper Denmark) published a book that was intended to demystify IPOs and listings. Many positive trends have come into play since then: the stock market in Denmark is now very favourable for companies of all types and sizes. At the same time, Danish law and legislative initiatives have been introduced to support an improved stock market for Danish companies. "IPOs in Denmark" is another contribution towards creating additional interest in NASDAQ Copenhagen as a source of financing for Danish businesses.

"IPOs in Denmark" uses "IPO" in the broad sense of the word to describe the initial public offering of a company's shares. The book does not distinguish in particular between NASDAQ's main market and NASDAQ First North. In legal terms, there is a significant difference between the two markets and the regulation hereof; part of the practical difference is described in a matrix on page 68 in the section headed "The IPO process".

New Capital Markets Act – relaxation of prospectus obligation

With the new Danish Capital Markets Act (*kapitalmarkedslov*) (effective from *3 January 2018*), the EUR 1 million threshold for public offerings of shares will be increased to EUR 5 million in Denmark. This means that public offerings of shares worth less than EUR 5 million may be carried out without a prospectus. A company description will still have to be made, and an application will still have to be submitted to the relevant market (NASDAQ) if the company is seeking to have its shares admitted to trading on NASDAQ First North. There will be no requirement for the company description to be approved by the Danish FSA. If a company is seeking to have its shares listed on the NASDAQ main market, a prospectus will be required, regardless of the size of the IPO.

New EU Prospectus Regulation – relaxation of prospectus obligation and of requirements to prospectuses

On 14 June 2017, the European Parliament and the Council adopted a new Prospectus Regulation (Regulation EU no. 2017/1129) to replace the current directive-based regulation of prospectuses with the attendant EU regu-lation. The new Prospectus Regulation is intended to make prospectuses shorter and more concise and to further harmonise prospectus law, and is envisaged to increase market efficiency and investor protection.
It is not a radical change of the rules we have today. But a number of relaxations will be introduced, particularly for SMEs. The full scale is not yet known.
The new rules mean that the individual member states will now be allowed to exempt IPOs of up to EUR 8 mil-lion from the prospectus obligation. Based on the preparatory notes to the new Capital Markets Act, the Danish Government will most likely propose to increase the EUR 5 million threshold to EUR 8 million once the new Prospectus Regulation enters into force.

Entry into force

The new Prospectus Regulation was published on 20 July 2017 and entered into force 20 days later with imme-diate effect in member states from *21 July 2019*.
Already on the date of entry into force, the increase of the threshold for *directed issues* of up to 20% of the company capital entered into force and thus applies now.
At the same time, certain parts of the Prospectus Regulation applies already from 21 July 2018 – among other things, the scope of application of the prospectus obligation, see above.

TEN THINGS YOU NEED TO KNOW ABOUT IPOs

1. **Common sense**
Always use your common sense. Together with a methodical approach and a lot of work, common sense is what it takes.

2. **Documentation**
Keep your ducks in a row. It is the well-documented and well-organised company maintaining everything "neat and tidy" that has the smoothest way through the IPO process.

3. **The tone at the top**
The tone at the top is key to a successful process and future value creation. Management's unrelenting focus on what is essential for the company's success and integrity as well as its ability to make its employees live and work the same approach is key.

4. **Processes**
Test the company's processes and procedures. Processes and procedures must be thoroughly tested and in place so as to avoid any unpleasant surprises due to incomplete control of the business.

5. **Governance**
Competent management geared to the future. The board of directors and executive board must have the right skills and competences as well as the right attitude towards the future facing the company once listed.

6. **Risk management**
Risks must be monitored. The combined organisation's understanding of the company's vision, strategy and business plans and thus the company's risks and risk management must be in focus.

7. **No nonsense**
Appoint good advisers who don't complicate the process and decisions unnecessarily.

8. **Timing**
Do not put off till tomorrow what you can do today - be prepared.

9. **Communication**
Focus on communication - communication about the company in a serious, correct, yet exiting form creates pride among employees and business partners as well as investor interest.

10. **Price**
Don't be greedy. The reward and joy in a higher share price in the future will also benefit the existing shareholders.

1. WHO IS THE BOOK INTENDED FOR?

The book is intended for anyone with an interest in the stock market. The primary focus of the book is well-run Danish companies contemplating to use the stock market for a professional Nordic public offering of shares.

The book is intended **primarily** for the companies and company owners **who are looking for an equity injection to fund new corporate initiatives and expansion or in relation to an ownership transition, whether the company is under private ownership or owned by private equity funds**.

The target group of the book is thus Danish companies looking to attract new capital, whether via the stock exchange or otherwise. The techniques are more or less the same in both scenarios. It is quite natural for a Danish book about IPOs to be targeted more at small and medium-sized companies and successful start-ups contemplating to attract equity in the Danish market than at the major – in a Danish context – companies contemplating a global share offer. Even so, everyone can benefit from and get wiser on the processes leading up to a successful IPO or other form of funding.

Nationally, but particularly internationally, interest in the stock market and new IPOs has rebounded after some tough years under the shadow of the financial crisis. In Denmark, different fora have been working intensively on formulating the activities that are needed to underpin a Danish stock market. Similarly, political initiatives have been launched to support the possibilities of SMEs on NASDAQ in Denmark, and a number of private initiatives have come into existence as well.

Within the last couple of years, Denmark has seen major companies like Nets and DONG, medium-sized companies like Boozt.com and Orphazyme as well as start-ups like GreenMobility and Conferize go public. The Danish business sector largely consists of small, minor and medium-sized companies that are no way near the size of DONG or Nets. This type of companies often needs

additional new equity to finance growth, develop products, invest in new technology and in new markets.

IPO or sale to private equity fund

The answer to these companies' capital requirements or considerations about a new ownership structure is often: "Go sell to a **private equity fund**". Sure, but what if the owner or the management does not want to sell or does not want to have a group of "suits" looking over their shoulders each day reminding them of the margins? What if they want to maintain the possibility of developing the business themselves and perhaps, for a period of time, maintain control of the company's situation and development jointly with one or more core shareholders? Can the stock market be used for that?

The stock market has become "hot", also among Danish private shareholders, family officers, funds and institutional investors, depending on the size of the company. The most recent example is the Danish Growth Fund, which has a declared wish to contribute to IPOs in Denmark within the SME segment.

There are certain ground rules which must be met when contemplating an IPO:

- First of all and most importantly, the company must be sound, meaning that it must be robust, well-run, have good governance and have potential.
- Secondly, the classic class A and B shares with different voting powers as well as other peculiar shareholders' agreements are a no-go.
- Thirdly, major companies which will be having institutional investors among their shareholders, must ensure that these investors get a sufficiently high number of shares measured by value; otherwise the investors cannot justify their interest in a "small" investment.
- Fourthly, either in addition to the above or as an alternative, the important thing is to have one or more reliable anchor investors on the team before the IPO.

Many of you will probably think: Is there even a market out there for these small and medium-sized companies, or start-ups for that matter?

Yes, the market is there and is only waiting for exciting Danish companies with a significant potential, good strategies and competent managements to be introduced to the market in the right way. Then everyone will be interested in joining in, like we have seen in the fall of 2017:

Følgende selskaber er i 2017 blevet noteret på NASDAQ's hovedmarked og First North I København: Orphazyme, Nilfisk, TCM Group, Conferize og GreenMobility. Endvidere har selskabet NPInvestor offentliggjort prospekt, med forventet første handelsdag den 5. december 2017.

2. NASDAQ COPENHAGEN – WHY ARE WE HERE?

By Carsten Borring, Head of Listings & Capital Markets, NASDAQ Copenhagen

The story about the stock market is basically the story about how the Western world has grown from small and inefficient feudal plutocracies into open, capitalist and liberal democracies.

It is no coincidence that one of the world's biggest stock exchanges and financial centres is based in London, where Parliament effected a modern revolution in 1688 by peacefully replacing the old-fashioned, elitist, change-resistant and Catholic King James by the far more modern, liberal, Parliament-friendly and Protestant William of Orange. The latter was not even English, but Dutch aristocracy imported from flat continental Europe.

Similarly, the foundation of the Danish stock exchange in 1648 was the harbinger of new prosperous times in Denmark for Danish business and the emerging Danish middle classes. From the trade in spices and cloth from Flanders in the 1600s and 1700s to 1808 when the stock exchange was granted a royal licence to trade in shares, the Danish stock exchange has managed to innovate and recreate itself as a reflection of the needs of changing times. So when industrialisation and economic growth really accelerated in the 1840s, the stock exchange was a central player in the transformation of Danish society as the place where Danish companies raised capital and where the sale of bonds financed an industrial boom.

Today, the name of the Danish stock exchange is NASDAQ Copenhagen. As indicated by the name, there is a connecting thread between the stock exchange at Nikolaj Plads in Copenhagen to the Stockholm stock exchange in Sweden to the NASDAQ market on Times Square in New York. The modern stock exchange model today is still a central element in the economy, but has now also grown into a corporate supermarket with a product range that is as wide as any modern and efficiently managed company and capital issuer may desire.

Why should a national market place be owned by a global financial services group, you might well ask.

> The stock market may potentially accelerate your company and propel it into the Danish business elite.

Because investors' demand for borderless technological and geographical scope is followed by expectations of cheaper and easier access to trading. Think back to how you used news and printed newspapers ten years ago and how, today, you expect news to be free, on-line and available 24-7. More or less the same shift in expectations and conditions has been felt by stock exchanges. Who would have thought just ten years ago that everybody would be able to buy and sell shares in companies all over the world at less than DKK 30 per transaction?

And trading is taking place on a massive scale. This is true globally, where NASDAQ offers trading in around 3,900 listed companies, and in Denmark at NASDAQ Copenhagen, where trading has averaged at DKK 5.5 billion every day in 2017. In fact, so many share-based shares are being traded that the Danish stock market is now the second largest market in the Nordic countries, only surpassed by our sister facility in Stockholm.

Stockholm is seeing a lot of IPOs compared with Denmark and is the most active stock market in Europe this year and in recent years. By way of example, we have already welcomed more than 80 new companies on our Nordic exchanges in 2017 – in Sweden alone, the number is 70 new companies. If the stock market can keep up its momentum, we will welcome a lot of new companies in Sweden and in the week before Christmas it looks as if we will be having two IPOs a day. At our US exchange, IPOs take place at a slightly slower rate, but there is no doubt that we will be seeing some very exciting companies going public in 2017. One of them was Danish Zealand Pharma, which opted for a double listing in the US to meet its US investors where they are. Denmark has seen five IPOs this year, but has room for many more. Danish growth companies should seriously consider an IPO – the stock market is ready for them now.

Why have the company admitted to trading

Formerly, an IPO would not be a top of mind option when Danish SMEs were looking to expand or considering their future plans after the exit of a principal shareholder.

This may seem a paradox, knowing that IPOs have a documented accelerating effect for small companies – in terms of growth, value creation and new jobs.

There may be many arguments in favour of an IPO in return for relinquishing a share of control:

- Access to equity
- Ownership transition to the next generation
- Diversification of the owner's risk – in whole or in part
- Pricing of the company based on market developments
- Quality stamp
- Improved possibility of implementing option, warrant and share programmes
- Increased visibility and awareness – for example, for marketing aimed at customers and business partners, improved ability to attract talent and improved communication platform for the company's messages

In most cases, an IPO will mean that the company receives new capital to grow without increasing the owner's risk in the company additionally. This results in greater freedom to operate and provides independence from individual investors or banks' approval of plans and strategies on an ongoing basis.

Subsequently, the company may raise new capital through new issues if capital is needed to set up abroad, develop new products, etc.

With a listed share, the company will also have access to its own currency as it can pay for growth via acquisition of new business areas or competitors with its own shares. The existing shareholders will become diluted in terms of control, but the increased total value of the company and its new opportunities for growth should more than offset such dilution.

Spreading of ownership and the independence that follows is therefore often an important parameter for owners who decide to go for an IPO. Often, there has been a long-standing focus on building up the company over the years, and the main part of the excess capital has been retained in the company as a means of financing growth.

The company owner has thus had a significant and increasing part of the capital and savings locked in the company. In connection with an IPO, the

capital will be freed up for most owners as the shares will become liquid and may be traded at the stock market after a period of time.

The seal of approval effect that an IPO often has for the company towards its business partners and the outside world is also a contributing factor to the decision to go public. This is because the pre-IPO process very much contributes to creating trust in the company and there is also a transparency going forward as to what the company is doing. The outside world knows about the increased external control to which the listed company is subject, which increases confidence in the company.

Remuneration practices in the form of share-based incentive programmes also become more attractive for the employees when the valuation of the shares reflects market conditions and when shares may be freely traded on a transparent market place after a lock-up period. There are many types of share-based remuneration, e.g. stock option and warrant programmes.

An IPO is usually followed by increased media coverage, and companies often find it easier to attract employees – and often more talented employees – than before. At the same time, existing and potential customers will have a better first-hand impression of the company and an IPO will often also open more doors and opportunities than before. Awareness of the company will increase significantly.

A good example is NNIT, which was mostly known as a subsidiary of Novo Nordisk before its IPO in March 2015 where it was given a new platform on the pink pages to tell the world what a well-managed company NNIT is and why NNIT's products are better than others.

And how many had heard about Conferize, GreenMobility, TCM Group or Orphazyme before they went public in 2017? Not that many. Nevertheless, several thousand shareholders subscribed for new shares in the IPOs.

Is an IPO the right route to take?

Basically, the issues to be considered by a company are the same for an IPO as for a full or partial divestment to an industrial buyer.

Growth requires capital, and company owners ask themselves again and again how to best raise such capital.

If an IPO is to be a viable option for the company, the owner must be prepared to retain control over the company for a period of time. The coming investors will demand that the original owner still "**holds the reins**" and, in other words, still depends on the company's continued performance.

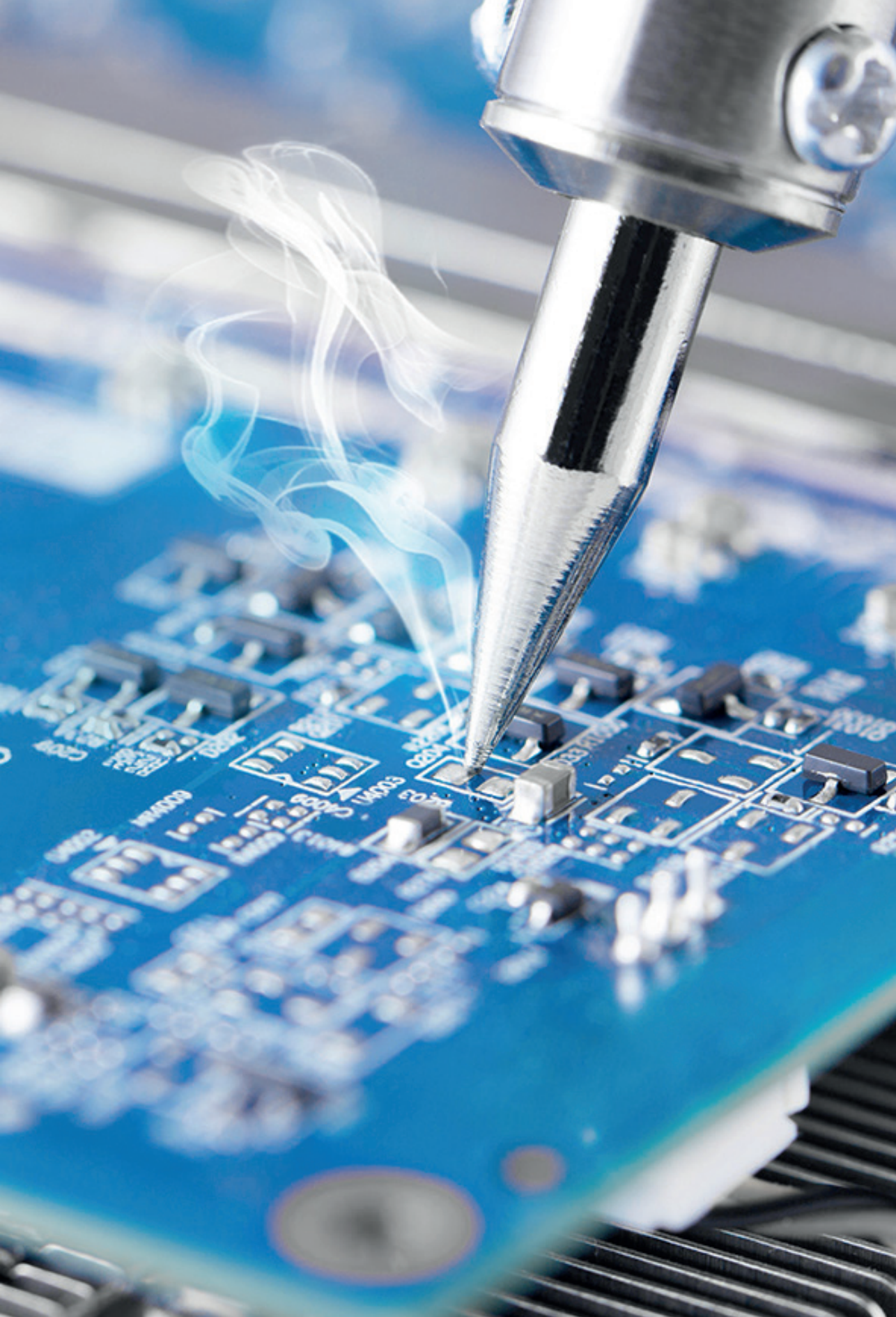
This will often mean that typically only a part of the company is divested in connection with an IPO. This is also seen where the owner opts to sell the company to a private equity fund. But in those cases, the owner will often become so "diluted" during the sales process as to be left in effect, as the minority shareholder, with no control. Even though the owner will still be financially dependent on the company's performance.

Continued control over the company is thus a strong argument in favour of an IPO as the original owner will still have some control over the company after the IPO.

The continued involvement means that you must have your heart in the IPO; otherwise, life as the principal shareholder may be difficult. You need to have the ability and desire to communicate about your company in good times and not-so-good times. If you don't like the spotlight and telling the world about your company, but would rather keep your cards close to your chest, you should never enter a public market place like NASDAQ.

Conversely, if you understand how to use the financial, managerial and communication advantages offered by an IPO, the stock market may potentially accelerate your company and propel it into the Danish business elite. That is why we are here, and we are ready to help you on your way to growth here in Copenhagen, whether you are looking to raise capital via the stock exchange in Denmark, Sweden, the US or several such places.

Welcome to NASDAQ.



3. THE OVERALL TIME SCHEDULE

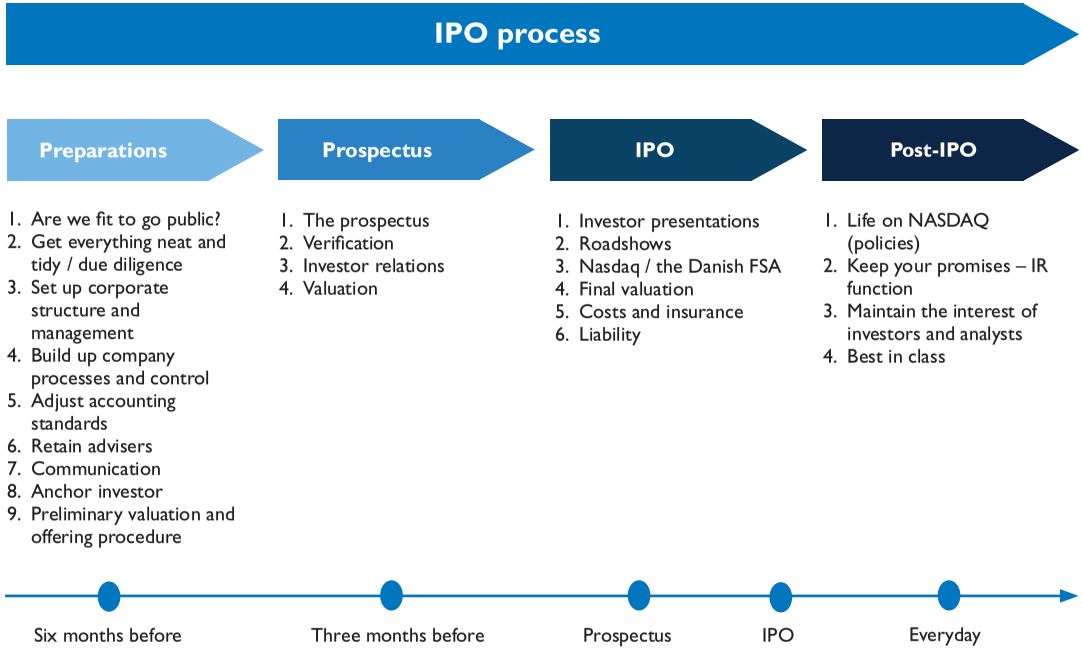
"The actual IPO process was not the longest period in this whole process. The preparations were. And you could ask yourself why did we not have all the practicalities in place from the start instead of waiting until the IPO process began."

Danish chairman of the board of directors and CEO

This book provides you with an insight into the processes that must interact in order to have a successful IPO. In our assessment, it is possible to complete an IPO in less than six months **if** the necessary resources are allocated and **if** the company has everything "neat and tidy". It is essential that the management is ready as well as able and willing to undertake an intense process.

The process of preparing prospectuses is described in the section headed "Preparation of prospectus". This section takes you through the time schedule of a company that engages in a rational and efficient process and at the same time maintains – decisive – focus on the business itself.

"We shouldn't think that we can make a purely Danish model. But nor should we overly complicate the process to our own unnecessary detriment."


IPO process
Preparations
Prospectus
IPO
Post-IPO
1. Are we fit to go public?
2. Get everything neat and tidy / due diligence
3. Set up corporate structure and management
4. Build up company processes and control
5. Adjust accounting standards
6. Retain advisers
7. Communication
8. Anchor investor
9. Preliminary valuation and offering procedure
1. The prospectus
2. Verification
3. Investor relations
4. Valuation
1. Investor presentations
2. Roadshows
3. Nasdaq / the Danish FSA
4. Final valuation
5. Costs and insurance
6. Liability
1. Life on NASDAQ (policies)
2. Keep your promises – IR function
3. Maintain the interest of investors and analysts
4. Best in class
Six months before
Three months before
Prospectus
IPO
Everyday

4. NASDAQ COMPANIES

Danish companies, big or small, with a clear strategy, operating in a growth market with a good growth potential, with a sound track record and good management, will benefit from being floated on the stock market, and the investors will benefit from the company.

When contemplating an IPO, the first question is often: "Is the company even cut out to go public?" Most company owners, investors and managements will instinctively say "no". But when they look down the list of listed companies, the diversity by industry, size and performance is nearly infinite. The answer should therefore instead be: "That depends …".

The most recent IPOs at NASDAQ Copenhagen, and at NASDAQ Stockholm in particular, show the span – from beauty creams and cotton wool to industrial and tech companies. And most recently, a car sharing operator, and even biotech companies are interesting again. The potential here is immense and practically no industry is ruled out today when it comes to completing an IPO.

But what should the company then be like? That question is best answered by describing what it should absolutely **not** be like. Reference is made to section 6 for a discussion of companies where everything is not "neat and tidy", a sistuation that is an absolute no-go.

An IPO offers the potential to raise new equity if you and the company have:

- a clear and comprehensible strategy
- good growth potential within the relevant sector/industry
- a smooth organisation and efficient management in place
- control of cash flows
- a good governance structure
- "everything neat and tidy"

Industries

In Denmark, we have focussed heavily on green energy and environmental upgrading, also as part of the political agenda, and what we see is a perfectly natural and positive interest in this type of companies. The same goes for exciting industrial companies that supply processes to improve agricultural products.

Companies operating within the new industries such as robotics companies, IT services companies, fintech companies, or scalable companies on the way to internationalisation are also of interest. And fortunately also classic manufacturing companies, with interesting and increasing earnings year after year. TCM Group is an excellent and actual example of such a company.

In recent years, biotech companies have been a no-go in Denmark, but not in Sweden. But things are looking brighter in Denmark as well with the listing of Orphazyme, which has just become reality. In Denmark we often talk about bad experience with biotech, despite the very good – and also relatively new – IPO stories of biotech companies like Genmab and Zealand Pharma. Small biotech companies quite naturally involve an element of speculation. That has not appealed to the Danish market. But apart from that and other new start-ups within the technology sectors with a hard-to-explain past and future, there probably aren't many industries that are ruled out per se.

Size

There is always a lot of talk about the company having to be of a size that qualifies as a major company, by Danish standards, in order to become listed. A Danish corporate finance house once said that an IPO was not interesting for the market if the post IPO free float in the share was less than DKK 1 billion. Developments have shown that this is not correct, nor is it the general opinion of the investors.

Back in 2013, NASDAQ asked a number of professional investors, including institutional investors, private funds and family offices, whether they would be interested in participating in an IPO where the price relative to the offer size, risk scenario, growth potential, debt and earnings potential had been reasonably set. Not surprisingly, the giant companies attracted most interest, but more than 50% of the respondents also found companies with a total market cap (not just free float) of DKK 1 billion or less to be interesting potential IPO candidates and investment objectives. And this has become reality since the survey. GreenMobility and Conferize, both of which were admitted to trading on NASDAQ First North in Copenhagen in 2017, both had a market cap in the DKK 150 - 300 million range when they were admitted.

No one is saying that a newly listed company must show explosive share price growth and have a super liquid share with a high share trading turnover from day one. There are many people out there who would like to invest in shares if they have confidence in the long-term potential of the **company** as well as the **share**. There are good examples of that.

SP Group has turned into a stock market darling with a market capitalisation of more than DKK 2.357 billion. It has been a long haul, but is a good example of a small company which has benefited from its IPO and created shareholder value.

Performance

The question thus comes down to whether the individual company is interesting to others and thus the stock market. It is crucial in this connection to be surrounded by people who are able to assess the company's state of health, robustness and future prospects as well as risks. Time spent on this assessment in the initial phase is time well spent and it is also functions as protection against something going wrong later in the process or immediately after the IPO.

There is nothing more respect-commanding on the stock market than a company and its management who year after year perform as promised and at the same time show strong growth – but who are also not afraid of taking effective actions and reporting about it when things do not turn out as expected.

The assessment of whether the company is even cut out to go public may be based on the following:

Does the company have:

- A clear and comprehensible strategy?
- Its activities in an intelligible or exciting industry with growth potential?
- Good management and organisational structure?
- A documented development as planned?
- A likely positive cash flow?
- A clear risk management structure?
- Good governance?
- An offer of the right size?
- "Neat and tidy"

5. HAVING YOUR DUCKS IN A ROW - "NEAT AND TIDY"

Most corporate leaders will answer "yes" to the question of whether everything is neat and tidy in their company. But is everything really "neat and tidy"?

In this context, "neat and tidy" is to be understood in the broad sense of the expression, covering everything from basic management to strategy, financial statements, budgets, controls, agreements, risk management, insurance, staff quality and development as well as compliance and corporate governance. Already in the initial phase of the prospectus work it is often revealed that comprehensive, structured tidying up is required before the documentation required for a proper IPO is in place. It is usually this phase of the IPO process that takes time and is time-consuming.

The process leading up to an IPO is identical to the process involved in a business transfer: Any buyer or its advisers may ask all kinds of reasonable - and from a seller's perspective unreasonable - questions. Most companies prepare for this process together with their advisers before, or in any event at the time when, they are put up for sale. **It is an exercise like this, only slightly more structured, thought-through and timed, which the company itself should carry out – some say everyday – at least once every year. The point is that the company regularly reviews and updates its documentation – so as to always have everything "neat and tidy"**.

Fortunately, a lot of Danish companies are well-structured and many of them are subject to strict documentation requirements on an everyday basis with respect to certifications, medicines requirements and US FDA approvals. These companies are used to having everything "neat and tidy" within many areas. But the complete review, the correlation with and the assessment of all outstanding issues and risks, that is where the real work lies. If all of these things are in order, the first and key prerequisite for a successful IPO will be in place. And, at the same time, the actual IPO process will be easier.

Today, the words data room and due diligence are already household words for most companies. Many have set up electronic data rooms through Dropbox, big international or home-made systems. That in itself is not difficult. But making sure that the data room is constantly up to date is a discipline which someone has to be put in charge of on a daily basis. When up-to-date, it represents an attractive tool for any company as everything can be documented.

The standard data room (or due diligence) request list which lawyers, corporate finance advisers, etc. use in their work is very extensive - but it is an excellent tool to use for the tidying up and prepping of a company. The overall contents are shown below at the end of this chapter.

"The tone at the top"

However, the crucial point is not only that all formalities and contracts are in order, but also that the owners and management – **in form** and **in substance** – understand the company and its situation so well that they are able to see the "holes in the cheese" and what can be done about them. The tone at the top is key. The management is a role model to the rest of the company and must ensure that there are no problems in the agreements made by the company - with itself (about strategies, target performance, risk management, conduct, etc.) as well as with third parties. **Formalities may have an underpinning function, but they can never replace management's outlook, messages and actions in the day-to-day practicalities and operation of the company.**

In this connection especially the **budget process is important**; timely and correct reporting, budget performance, budget control and the ability to immediately initiate corrective actions as a part of the everyday activities of the company.

You can argue that everyone should run their business with a very high sense of urgency that private equity funds have taught many to imitate. The only difference being that the existing group of owners may have a more long-term perspective and a different kind of respect for or sense of solidarity with the community – local or regional – in which the company operates.

At the same time, the process of getting everything "neat and tidy" often reveals who in **the organisation** would fit into a dynamic, executing organisation going forward.

Financing

In order to obtain financing through banks, leasing and factoring companies extensive documentation will have to be prepared, including security documents, guarantee documents, covenants, etc. In connection with the presentation of annual reports – but also in connection with an IPO – it is important to be absolutely sure that this documentation is in place and that no changes are required because the circumstances have changed or will change due to the IPO. Experience shows that there is always room for improvement here. Financing of, providing security for and accepting joint liability with subsidiaries are some of the things that often take time to get in order and properly documented in connection with the IPO-preparing process.

Subsidiaries

Foreign subsidiaries – whether sales or production subsidiaries – have sometimes received scant attention from the parent company. How can they be integrated into the company? As an integral entity or as an independent entity with full and independent P/L responsibility and possibly an independent board of directors? That is a commercial issue which must be resolved in advance. We believe in full integration, close monitoring, control and reporting, unless otherwise dictated by very good and quite extraordinary reasons. But does the parent company here in Denmark know what is actually going on in its foreign subsidiaries? The documents may be in Chinese, Thai, Polish or Hungarian, and the culture and the consequences of missteps may differ significantly from what we see in Denmark.

Competition law – compliance

Competition law has become increasingly important in our globalised world. Parties entering into agreements with each other are subject to the legal systems of their home countries and at the same time they are subject to supranational rules like EU law. Furthermore, national authorities - as well as, for example, the EU – have increased their focus on agreements which may restrict free competition, share markets or keep prices and profit margins up. Sole distributor agreements which the parties have navigated by for many years may prove to be invalid in whole or in part and even now be subject to a risk of sanction when subjected to today's legal scrutiny. A company's business foundation may thus vanish within an instant and corrective actions may be of decisive importance. This is something which should not come to light just before, let alone after, an IPO. For this reason as well, it is absolutely vital for the company to constantly be in control of and follow up on its commercial and legal business foundation.

Patents, trademarks and other IPR may be of the same decisively important nature and must thus continuously be in place in order to secure the company's future.

Compliance

Compliance in the broad sense of the word is also an essential everyday topic and is often critical to a company's future as a listed company. The Panama/ Paradise Papers, kickbacks, unauthorised receipt of information, violation of embargoes and sub-contractors' use of child labour and, most recently, data protection – the list of topics is infinite depending on the relevant industry, but in a world where compliance is a natural part of everyone's daily life such issues may be devastating to a company's chances of a successful IPO.

Come spring 2018, personal data will represent a new risk scenario for all companies, and for some an insurmountable problem. Throughout the due diligence processes of this past year, it has become clear that the real risk of non-compliance is the reduction of a company's value or in glaring situations a complete no go for completing a transaction/IPO.

Tax

It may be difficult to get an overall view of the company's tax situation where, for example, the company has foreign activities in countries with widely different systems of taxation. Transfer pricing and the enthusiasm shown by individual countries in their enforcement of these rules may give rise not only to a lot of work, but also to financial statements and procedures having to be revisited and it may of course also affect the tax payment and thus the future cash flow of the company.

In order to enjoy a nice and quiet everyday life, also outside an IPO context, this is an area that must be revised, trimmed and optimised on a continuous basis within the framework of relevant legislation. It may therefore also be necessary to change entire **corporate structures** in order to support and optimise future expected developments in the earnings pattern of a group of companies growing on a global scale.

Accounting

In the section headed "Financial statements and budgets" the preparations for an IPO seen through the auditor's glasses are discussed. In this section, it is merely emphasised that companies must be conscious that acquisitions in the period up to an IPO must be capable of being included in a prospectus, and this also applies to the figures – retrospectively, that is. That will take time if it were to become reality, and that is why such situations must be factored into the time schedule.

Governance

The tone at the top is alpha and omega, see the section headed "Management". It all begins with the management. It is one thing that the board of directors is good at supporting the existing owners and perhaps even understands the business and market to the fullest, but will it also be good in a future growth context and will it also be met with trust from an investor market?

A good instrument to use in the composition of a healthy governance that instils trust internally as well as externally is to actively use the **corporate governance recommendations**.

By using the recommendations, the company will gain control not only of the composition of the board of directors and generally good governance strategy, but also of its CSR policy, diversity, whistleblower programmes, executive service agreements, incentive programmes and the other formulated policies that it should have in place. It may sound like a mouthful, but it is actually quite straightforward. Experience shows that if done right and tailored to the individual company, these documents take longer than everyone thinks - also in the absence of an IPO. **But the upside is that they become excellent instruments and markers that the company can use to steer by in its future work if using it actively on an everyday basis**.

Risk management

Risk management is one of the most important concepts in modern corporate governance. Numerous risk management models are being developed and further developed on a continuous basis which are differentiated according to the individual industry and company. With or without models and with or without an IPO, it is decisive for a company to have a good general idea of its risks and to regularly assess and adjust them when relevant circumstances change. Such changes may occur either as a result of market and social developments or as a result of the company's changed conduct or growth.

Subsidies for individual industries, like for example wind power, are positive for the industry and for investors in such companies. But they come with a political price tag. As with most areas of politics, a new government can set new agendas that may stop progress. In the US, for example, a potential tax reform represents a material risk to wind power, and the mere mentioning of reform has an immense effect on wind power companies and their pricing.

The board of directors' focus on risks*

Formal	Financial	Non-financial

• The ones that **must** be under control
• The ones that are nice to have under control
- commercially
- generally
	• Stress tests
	• KPIs
	• Classic factors:
	  • Revenue
	  • Margins
	  • Results
	  • Cash flow
	  • Composition of balance sheet
	  • Capital structure
	  • Tax
	• Own systems
	  • Data security
	  • Fraud
	  • Control
		• Culture/values
		• Governance/Compliance
		• Personal data
		• Management
		• Brand
		• General compliance
		• Innovation/technology
		• Production/environment
		• Customer behaviour/relations
		• Communication
		• Relations to third-party stakeholders
		• (Geo)political matters
		• Quality/supply performance
		• Understanding industry developments
		• Employees
		• Authorities
		• "The unknown"

*Identify which risks are relevant and their importance to the **individual** company

Any activity comes with risks. The essential thing is what the company does to avoid that the identified risks translate into real problems or losses for the company in question. At the same time, reality has shown that "the impossible is possible".

It is crucial as regards the risk assessment and planned corrective actions to understand that when misfortune strikes, the worst case scenario is often much worse than anticipated! Conversely, if a company really understands its risks, this understanding can be used to create a permanent competitive advantage.

Formalities

A listed company is subject to requirements about having internal rules and policies in place for a number of aspects, such as share trading, insiders, communication, etc. These aspects often seem formalistic, but by getting them in order early on in the process towards an IPO the company and its management get to benefit from these rules and policies in their day-to-day work. The fact is that they are often a helpful tool in improving the company's structure and focus on what is relevant, see the section headed "Life at NASDAQ".

“

The crucial point is that the owners and management understand the company and its situation so well that they are able to see the “holes in the cheese” and what can be done about them – as well as possible.

”

Due diligence request list - overall contents

Table of contents

1. Strategy, policies and action plans
2. Market data
3. Calculation and analysis
4. General documentation about the company
5. Corporate matters
6. Share capital and shareholders
7. Accounting and financing, investments
8. Management-related matters
9. Incentive schemes
10. Key employees and managers
11. Employees and benefits
12. Intercompany agreements
13. Competition law
14. 1Agreements in general
15. Customers
16. Suppliers
17. Contracts and obligations
18. Loan agreements, pledging, guarantees, etc.
19. Other agreements
20. Insurance
21. Operating equipment, machinery and inventory
22. Licences, patents, etc. and regulatory compliance
23. Intangible assets
24. Compliance
25. IT
26. Disputes
27. Environment
28. Real property
29. Tax
30. Other matters

6. MANAGEMENT

"The tone at the top" is key to the development of any business. The quality of management and the management team are therefore crucial to value creation in the company

One of the most important success criteria in any company is management, including the composition of the management team and its aggregated expertise, experience and set of values. Before an IPO, it is therefore critical to get the right management in place and ensure that "everything is neat and tidy" on this parameter, too.

The shareholders appoint the board of directors and the board of directors is now constituted in a close co-operation between the majority shareholders and the existing board of directors. The board of directors employs the executive board. The executive board appoints and employs its management team locally and internationally. In the real world, however, a new board of directors inherits the existing CEO and a new CEO inherits the existing management team, which will then be adjusted to suit new strategies and forms of cooperation on an ongoing basis.

In connection with the IPO, NASDAQ will assess whether the board of directors and the executive board meet the general management requirements for listed companies, i.e. a sort of management due diligence review but not a formal fit & proper approval as required by the FSA.

Board of directors

There is a lot of focus on the board's composition, working method and involvement in the life of the company. At the same time, it has become acceptable and even necessary to regard the job of serving on the board of directors as just that: **a job**. It takes time to compose a broadly based board where time, expertise and chemistry work, and it is necessary to also factor in the risk of mistakes.

So, how do we go about composing a good board of directors?

If the board of directors and the owner together base their choice of candidates on which expertise and skills are needed by the company on its board of directors, it is rarely difficult to find the right candidates. By far most people would be pleased to be contacted about a seat on the board of directors, particularly if they hear that the company is also considering going public. In this process, it is important to assess if the candidates actually have time enough to be an active board member and if they would be a good match chemistry-wise with the other board members and the executive board.

The process may be driven by the owner and the company's board of directors alone or together with an executive search firm. The crucial thing is to have a structured process and to allocate and spend the necessary time. The method of search is very simple and classic: A search is made based on input on skills and personality; the search is narrowed down continuously and, ultimately, only one or a couple of candidates are left. In the ultimate phase, it is often personality – the individual person – that is the deciding factor.

An owner or management with ambitious plans for the company should not be afraid to offer foreigners a seat on the board of directors, e.g. a business partner, supplier or customer or perhaps even someone from the same or an affiliated industry. Fortunately, we are increasingly seeing foreigners on the boards of directors of Danish companies, which is a good thing. It provides for another type of independence, both of Danish society and the "old boy's network" that has often been criticised. It injects new dynamics and a new perspective in the work and provides for good discussions and good decisions to be made.

It is a generally accepted fact that Danish international companies benefit from and need international board members and executives. Just as importantly, the total board of directors must understand what is going on in major foreign subsidiaries. At least once a year, the board of directors should visit such a subsidiary and thereby obtain direct insight into local culture and management.

When a company embarks on the process of going public, it is clearly an advantage if some board members at least have already participated in such a process before and have experience in the operations of a listed company. Apart from knowledge and experience of the process, they often also have the courage and nerve needed to cope with the pressure, both in terms of the timing aspect with short deadlines and in the situations where the company is doing less well than expected. Here, management must maintain

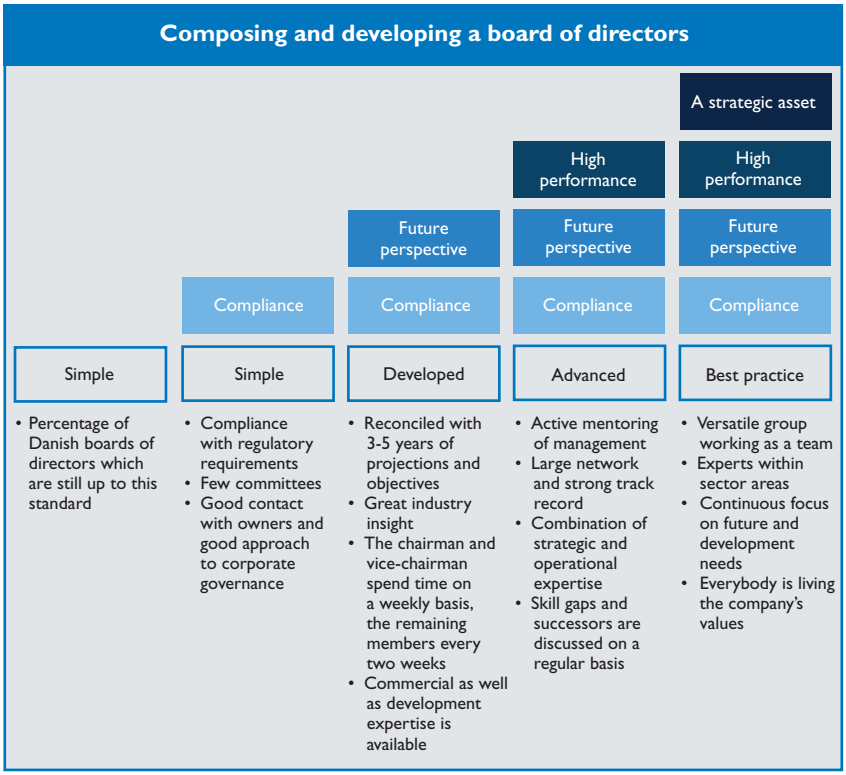
its ability to focus on reality and not succumb to what is often massive pressure from the outside world – analysts and media.

If the goal is a well-planned IPO, it is a good idea to get the board of directors in place so early in the process that it may take part in the entire IPO process and therefore have deep insight into the business in connection with the preparation of the prospectus.

Board work – whether concerning control, business development, strategy or operations – is something that most business people will be able to undertake if only they possess some measure of common sense and are willing to work hard and thoroughly. It is also advisable for CEOs to sit on the board of directors of another company and see things from the other side of the table.

Board agreements may be an effective tool, especially in companies that are about to develop their own governance structure. In these agreements, the company's and owners' expectations to the individual member of the board of directors were described for the next say 3-year period, and what was expected in return, not only financially but also decision-making and skills-wise. A very healthy exercise that balances the expectations of all parties involved and emphasises the fact that this is a job and not an honorary office and that you have not been elected for life.

Once the company has a well-functioning board of directors, the next step is to develop the board work into an even better active tool to support the company's continued development. In this process, a continuous injection of skills which suit the company's development would be a very natural tool. A seat on the board of directors is no longer an honorary office, but work – and is also accepted as such. More frequent changes in how the board of directors is composed have therefore now also become more acceptable for the individual board member, and the company and the board member can thus legitimately decide that they have to part ways. If effected positively and without drama, the board work, under the skilful management of the chairman (and vice-chairman, where applicable), may be brought to the level of best in class – and possibly even better (world class). The below model may be used for all boards of directors, whatever the size of the company – and may serve as inspiration to improve the board of directors of small companies.



Executive board

The board of directors may be ever so important, but the most important body is the executive board. The executive board must provide input for the main part of the company's strategy, execute the strategy and "deliver" every single day. At the same time, in connection with an IPO process the executive board must be able to see the process through, participate in roadshows and subsequently satisfy the stock market's constant need for information for analysis and appraisal purposes. At times, this pressure may be strongly felt by the executive board, especially of course if things are not going too well but also when the press and the analysts have a negative approach to a company or a management.

We will not issue any directions here as to who and what the executives of individual companies should be, but will simply emphasise the importance of having at least two executives registered with the Danish Business Authority – a CEO and a CFO – who are known by the board of directors, the shareholders and the stock market. In addition, there should be a strong and well-described second tier of management – which is known by the board of directors. This will ensure internal control and sounding board as well as the possibility of swift (temporary) replacement if an executive or key manager leaves.

Evaluation

The structured annual evaluation of the board of directors and the executive board is a tool that is intended to ensure continuous improvement of the quality of the work carried out by the board of directors and the management. If applied properly, it is a useful tool that will ensure successful recruitment and also improve relations internally.

In small companies, the assessment may be done by way of a simple roundtable discussion, in large companies by way of a more formalised and structured process, with or without external consultants.

The important thing is that no one should be afraid of saying what they think. At the same time, it is important that the process is not just a formal check-the-box process, but an honest and open process.

Cooperation and division of responsibilities in year 2018

The board of directors and the executive board are closing in on each other, and this requires a clear and accepted division of responsibilities.

Executives must accept being looked over their shoulder, but should also enjoy freedom of operation.

Executives must be better at using individual members of the board of directors.

Does the board of directors have the expertise and time to do what it must and wants to do?

- evaluation – prices – agreement

Foreign members of the board of directors may have important contributions to make

More meetings, but higher efficiency

Certain committees may be good instruments, but the board of directors must maintain its helicopter perspective and responsibility

Formalities and discussions of liability should not take up too much time

- special situations/crises – be prepared

Overview of some of the issues to be considered when composing a good board of directors:

- Industry experience
- Expertise required for the next three years
- Consistency with the other expertise available on the board
- The executive board's need for a sounding board
- Age – diversity
- Chemistry and style in relation to company, management and board of
- directors
- Time to do the work
- Relevant managerial experience

7. FINANCIAL STATEMENTS AND BUDGETS

By Niels-Jørgen Andersen, Partner and IPO readiness expert, EY

Financial statements and budgets will attract far more interest from investors and the general public in the transformation from private to listed company. This is true in the planning phase as mentioned in the section on the IPO process and also in the company's post-IPO "life".

IFRS financial statements

In the planning phase, focus is on the company's financial statements. Companies with a main market listing at NASDAQ Copenhagen are required to present their financial statements in accordance with IFRS (the International Financial Reporting Standards). Compared with the presentation of financial statements under the Danish Financial Statements Act (årsregnskabsloven), this means a significant increase in both complexity and the requirement for documentation. In the planning phase, the company's two most recent annual periods must be converted into IFRS compliance as a result of the requirement for those reports to be contained in the prospectus. **This conversion requires an in-depth analysis of the company's historical accounting principles** and the manner in which they have been applied in the company, in Denmark and in any foreign subsidiaries. For some companies, this is a straightforward exercise, but for others it can be a relatively extensive process to undertake.

It is my clear recommendation that this analysis should be performed well before the actual IPO process. The conversion is time-consuming and it is exceedingly important for management to understand and be able to explain the IFRS figures to the outside world. This requires that management has a good general idea of the implications of the IFRS conversion well before engaging in communication with investors and analysts. Surprises emerge not infrequently in the course of the analysis process in the form of transactions which could or should have been treated otherwise, or accounting principles that have not been consistently applied in the group. This may potentially lead to changes in historical accounting figures, which will be particularly

problematic if the changes are implemented shortly before the listing date. It will cast doubt on the company's ability to produce **robust accounting figures** and thereby uncertainty among investors in this critical phase. In my experience, such changes are caused by both complex accounting issues such as purchase price allocations in connection with business acquisitions and recognition of complex sources of income, but also simpler issues such as provisions, accruals and accounting estimates in general.

However, this risk of correction of historical accounting figures should not necessarily make potential IPO candidates convert to IFRS in their external financial statements too early in the process. The analysis work may well be performed in parallel with the financial statements being prepared according to the usual principles so that the IFRS figures are only compiled and reported for internal use. Such a manoeuvre is less costly than a complete IFRS conversion, but will still enable the external accounting figures to be converted quickly when and if the company elects to go public.

Other financial reporting

A private company is used to primarily concentrating its financial reporting around income statement, balance sheet and cash flows. For the listed company, there is a number of additional financial information which must be collected continuously and reported externally. Some of this information must be provided in the notes to the IFRS financial statements. This is the case with financial information about turnover and the results per segment and financial risks. Other information is given voluntarily in order to show the historical drivers of the company's development and what will be its future drivers. Examples of such "other information" could be the development in a retail chain's distributor network expressed as the number of newly opened shops per calendar quarter as well as development in quarterly sales per sales channel.

An essential element in the IPO prepping process is therefore also to clarify **which additional information to provide in the financial statements**, whether the information is available and, if not, how to collect it.

The same applies to all other information the company wishes to communicate to the market, including in investor and analyst presentations. Unfortunately, it is not possible to simply consult a check list and see which information is needed, and it is not necessarily an exercise that the accounting department can manage on their own, either. For companies with a very high degree of "neat and tidiness", the financial and non-financial key performance indicators will be contained in the internal management reporting. They are the performance indicators which drive the company. For most companies, however, it requires some amount of preparation to clarify this, and in many cases it will not be finally clarified until the investment

banks enter the process. Transparency in this regard will help the banks tell the narrative and sell the shares to investors and analysts. However, for many companies it would be a good idea to complete this exercise well before the IPO as good insight into the company's KPIs will not only make it easier to manage the company, but will also prepare management to "sell" the IPO case to potential investment banks. So, here, too, preparation is important.

Interim reports

For listed companies, interim reports are not nearly as comprehensive as their annual IFRS financial statements. But even so, it takes quite a lot of preparation to report quarterly or half-year figures to the stock market. Most private companies are used to the figures of the financial statements not being final until the auditor has looked them over and made the final adjustments and post-entries. When preparing interim reports, the company's auditor will typically not be involved in the process and this extra safety net is thus absent. **It is therefore a requirement that the company's own processes are fully adequate to result in the final and correct figures**. In addition, it requires that, to a greater extent than before, the company will close its books every quarter in the same way as with an ordinary closing of the annual financial statements with all the additional actions and adjustments this requires.

Last, but not least, the company only has two months to publish the figures, which is why many companies which are contemplating an IPO should seek to strengthen and shorten the process.

> "An IPO is not a goal in itself, but simply another milestone in the company's journey. Therefore, the quality of the financial infrastructure must be sufficiently high to generate robust financial information on a continuous basis."

Robust financial information

It is important to remember that an IPO is not a goal in itself, but simply another milestone in the company's journey. As a result, it is not just important to generate robust figures for the prospectus, but also to ensure that the quality of the company's financial infrastructure will be sufficiently high to generate robust financial figures on a continuous basis. This applies not only to the income statement and balance sheet etc., but also to the other financial information which is mentioned above.

In the course of the IPO prepping process, the company's **financial processes** should therefore be scrutinised in order to assess their adequacy. The areas where, in our experience, we have seen the biggest challenges and which are therefore the sources of most mistakes are the financial statements close process, inadequate controls and the quality of the financial data which are not generated by the company's financial management system. Unfortunately, Danish companies still have a tendency to place too much trust in system-generated figures.

Budgets

Listed companies provide financial information about the coming period; not detailed budgets, but for example information about turnover, EBITDA and pre-tax profit. Those budget figures are highly relevant to the stock market as they are used, together with the company's historical figures, by analysts and investors to make projections about the company's future development

which form the basis of the market's valuation of the company.

In this light, it is hardly necessary to point out that the company's processes for generating **exact budget figures** must be as robust as possible. Even minor changes may have great impact on the valuation, and the stock market is exceedingly sensitive to changes in the company's expectations to the future.

Nevertheless, the budget process is rarely a priority area for companies embarking on the last leg of the IPO journey. Particularly for companies with a presence abroad, however, the process may be quite extensive and, ideally, the effort to strengthen the process should therefore not be performed in close proximity to the IPO date.

General check list for financial reporting and tax issues:

Financial reporting:

- Are budget procedures in place which provide for a robust and timely budget process and follow-up?
- Are established procedures in place which provide for correct and timely financial reporting?
- Has an assessment been made as to whether the financial management, accounting, operating and IT processes, systems and controls support the operations of a listed company?
- Are there any formal accounting and reporting principles in writing as well as procedural guidelines which fulfil IFRS requirements?
- Are there any accounting aspects that are particularly complicated?
- Have financial forecasts and projections been prepared and reviewed on a solid basis?
- Have any segments been defined?

Tax

- Has the corporate structure been reviewed from a tax perspective?
- Has a tax function and the infrastructure which is necessary for a listed company been established - or outsourced?
- Has the remuneration practices and reportings to the Danish tax authorities in this connection been reviewed?
- Are procedures for review and management of tax risks and disputes in place?

8. ANCHOR INVESTORS

Today, institutional investors are not the only ones to come forward in the IPO process. Many other recognised investors have supported IPO candidates as investors during the prepping process and during the IPO process as such. But how to obtain backing from such anchor investors?

How can the company build sufficient credibility as a good investment case in Denmark?

This is one of the many questions that will arise when a small (or big) unknown Danish company is considering whether to raise capital via the stock exchange. The answer is that it takes structured planning and, of course, a company that is successful, sound and future-proof and well-managed. But, often, it also takes a good name to give the seal of approval.

Outside the financial sector, there have been no companies in the past five years which have had a bank underwrite its share issue. Thus, the seal of approval that an issuer bank's underwriting commitment for a capital increase used to be must be obtained by other means. Fortunately, this autumn (2017) we have seen IPOs on the main market and at First North where private investors, banks and minor foundations issue advance subscription commitments, thereby lending their name to the IPO.

The company and also the investment case as such will benefit from **strong credibility** by taking on board as early in the process as possible a reputable investor as a shareholder of the company, who may also participate as an active sparring partner in the subsequent IPO process.

As mentioned above, today, there are far more such investors than there used to be. Apart from classic institutional investors such as pension funds and insurance companies, a number of foundations and family officers are looking for serious investment opportunities with a potentially high return. The good

Boozt.com and Orphazyme are two examples of companies which had been prepped by means of a professionalisation process with its anchor investors to the extent that an IPO was an obvious option for these interesting companies.

thing is that they are not only looking for investments in the DKK 100 million range, but also minor investment opportunities, e.g. DKK 10 million.

In addition to providing equity, credibility and professionalism, such investors may also attract other investors and even interesting candidates for the board of directors of the company, which may otherwise seem difficult when you are a company owner on the brink of entering a new world.
But how to find the right investor for the company?

Well, that is a task in its own right, but constant reading the newspapers and trade journals, searching the Internet, talking with the bank and advisers may lead you in the right direction. And there is no need to be afraid of approaching a potential candidate. If a company owner or management is proud of their company, most people will be willing to listen. Another option would be to use the media to communicate openly and ambitiously about the company and its wish to raise capital.

Timing

There are several ways of bringing such an investor into the company. The investor should be brought in **either** six to twelve months before the IPO **or** immediately in connection with the IPO. The deciding factor is that the persons in question accept being part of the company for the long term – and not just sell their shares when the IPO has been completed. The latter path will not provide the crucial credibility as the persons in question may not share the opportunities and risks with the stock exchange investors and therefore cannot be regarded as anchor investors.

It will provide the maximum benefit if the investor is involved as a shareholder of the company well before the IPO, like with Orphazyme. This will provide the investor with an opportunity to get to know the company in all details and thereby contribute to clarifying any issues that may arise. The most important element in this process is that the original owner and the new investors in their capacity as new joint owners manage to establish a good and positive cooperation with management and share the goals and visions – and in particular the rate at which plans are to be realised.

The exercise of getting such an investor on board should not be underrated. The company must have everything "neat and tidy", as described in section 5. The company must learn to present itself to a new clientele – not just the

usual customers – but the investor market. Finally, the company must be trained in formalities, governance and compliance, which is always of great importance to those coming in from the outside, including future stock exchange investors. By having such a period together with a new professional investor, time is won to get these issues in place while, at the same time, the parties get to know each other and the company in a new way. Finally, the former owner will learn to accept that other people have a say over the company, which is crucial. The responsibility for other people's money is always heavy, and most will feel it more heavily than for their own money.

Often, there are also immediate benefits of getting such an investor on board. Discussions about the company's banking issues will change once the company has a strong and credible financial partner at its side. Also, many suppliers and other creditors will change their attitude once the investor in question becomes known as a co-owner, see the section headed "Building awareness". Finally, the company's advisers will know that an owner with experience from the investor market has entered the picture so that the company is better equipped to go through the process on its own terms.

The alternative to getting an investor on board early in the process is to wait until immediately in connection with the IPO either as a guarantor of part of the offering or as shareholder just prior to the IPO. If this path is chosen, the company must have sufficient funds to finance its operations in the period until the IPO. The downside is that the investor in question will

not have the same amount of time to assess its investment. The upside is that the investor will invest on the same basis and in effect at the same price as the other investors in the IPO, a fact that will be appreciated by the stock market.

Extract from TCM Group A/S's offering circular of 13 November 2017:

The Company has received commitments from each of the following investors ("Cornerstone Investors"), subject to certain conditions, to purchase DKK 315 million worth of Offer Shares at the Offer Price, equivalent to 42.9-50% of the Offer Shares, depending on the final Offer Price (excluding the Overallotment Option as defined below) ("Cornerstone Shares"). The Cornerstone Investors' commitments may be broken down as follows: (...)

The crucial factor when choosing the investor and the process is to decide what the company needs in order to realise its goals and what you as the owner feel is right commercially and personally.

So, what to do to get an anchor investor on board?

It is relatively simple:

1. Get everything "neat and tidy", see section 5
2. Identify the right investors for the company and for the owner/ management personally
3. Present the right model to the investor
4. Conclude the necessary agreements with the investor

Items 3 and 4 in particular are discussed here. Long-winded PowerPoint presentations are no longer used for introduction. Try to imagine how you would describe your company's core business, products, development stages, competitive situation, risks and strategy as well as finances in no more than, for example, eight pages. If the investor is interested, you can always go deeper into the details later. But being able to pitch your company briefly, precisely and enthusiastically is something that will require a lot of practice for most people.

Which agreements to conclude, then?

An investment agreement and a shareholders' agreement. The investment agreement must set out the terms of the agreed investment. The shareholders' agreement must set out the terms of the parties' future cooperation, governance, how to deal with a sale of shares as well as an IPO or other exit strategy. Such agreements may be long and moulded on all-inclusive UK/US based standards. Or they may be brief, straightforward and clear because they are based on Danish law and Danish standards.

The following list may be used in the considerations as to whether to involve an anchor investor:

- Does the company need equity to become an attractive IPO candidate?
- Can the company's business concept, objectives and financial situation be described in concise, factually correct and exciting terms?
- Which investor type would best suit the company?
- Is there any knowledge or network which ensures contact to the investors which are suited for the owner and the company?
- How to make contact?
- Would the company stand up to investor scrutiny at this point in time?
- Are the owner and the company ready to bring on an investor who will have his own ideas about the company's operation, management and strategy?

9. BUILDING AWARENESS

It is easy to become known, and it is easy to get a big headline and one-pager in the Danish daily newspaper Børsen. But being known as a bona fide, positive and exciting IPO case will take longer than the IPO process itself. So start early.

Everybody who is interested in the business sector and potential IPO candidates had heard about DONG (now Ørsted) before the company went public, and the same is true of Nets. But who had heard about the small companies Conferize and GreenMobility or Gormspace? Not many. And how many investors really knew anything about NNIT, apart from the fact that it was a subsidiary of the Novo Group? Not many. The companies are mentioned here because they are good examples of awareness building. Unfortunately, the media has a preference for negative stories so they get most coverage which is frustrating for an otherwise efficient market.

Building awareness and credibility is **a discipline and process which, for some, is tiresome and a necessary evil**, but for those who love their company and like talking about it, is **an important inspirational factor in their day-to-day activities**. But Denmark is the country of the who-do-you-think-you-are mentality, and the general public and the stock market should therefore be approached with caution. For Nets, it was a question of building credibility after having been owned by a private equity fund, and the same is true of every other company in a similar situation.

For companies such as Nets and DONG, which everyone knows from their daily life, building awareness was not a question of making the companies known among the general public – they already were. For DONG, building awareness was a matter of communicating how the business had changed over time and increasing the credibility of the company's financial performance going forward.

“In a modern world, the old Danish saying of "those who live quietly live well" no longer holds true. Transparency is simply too prevalent now.”

For other companies, focus must be put on all aspects of the company in order to increase awareness and particularly:

- What kind of a company is it?
- What does it do?
- Does it operate in an exciting future-proof market?
- What is management like?
- Is the business case basically solid and sound?
- What kind of cash flows does it have?
- What is its key selling point?

There may be any number of reasons why a company would want visibility, e.g. to improve relations with customers, suppliers, employees, public authorities or society at large. Or it could be something as simple as management's personal wishes to get exposure of what they do and are proud of.

In a modern world, the old Danish saying of “those who live quietly live well” no longer holds true. Transparency is simply too prevalent now. And if this is how it is, why not change transparency into something positive?

Process

The good ways of starting out to build awareness are through:

- own announcements
- established media – printed and electronic
- new media

When the company feels ready to begin the process of raising new equity at NASDAQ or elsewhere, the necessity of building awareness with investors and corporate finance houses arises. And, finally, detailed presentations will be required, and perhaps trips to foreign production entities or markets with interested banks/analysts and investors.

Communications adviser

It is a good idea to spend some money hiring an IR or communications adviser at an early stage of the process. The adviser in question will advise the company which media that may be interested, which announcements to issue and which persons to contact in order to obtain coverage. The adviser may advise on how to lay out announcements so as to catch the reporter's and reader's eye. The adviser may also give – good – advice on the use of social media, which are good influencers if used properly. In a subsequent process, the company can either employ an IR officer or continue buying ad hoc services to support management. But the crucial thing is to ensure that the company is in control of communications. **The company is the one communicating – not the adviser.**

The media are hungry for news to maintain interest in their own brand. A simple message that a company is considering an IPO will be enough to attract one or more pages of coverage in one of the major newspapers. A source of coverage that is often overlooked is professional journals and magazines, whose content is often copied by the mainstream media. Inviting

reporters to see the company or participate in a seminar about the company or other potentially interesting events is also a good idea as this may spawn real interest and curiosity. For small companies, the latter may be a cheaper solution than hiring the communications adviser for an intensive and long process.

In the process of building awareness, annual reports, website and company brochures may also be used. Everybody has them, but most companies do not target them at the investor market, and even listed companies often fail to do so.

It is not so difficult to attract media interest – not even positive interest.

Once the company and management has created interest in the company and its products and plans with some media, the next phase is to direct the interest towards finances and plans about new investors/an IPO. Companies and persons who have the courage and will to talk about ambitious expansion plans supported by illustrative graphs and drawings will always draw attention.

Does it take time? Yes, of course, but with solid preparations and planning in place, it will not be disproportionately time-consuming, particularly because most of the work may also be used to drive the company forward in terms of employees, customers and suppliers. The decisive factor is that the company is interesting and that management shows an interest in telling others about it. Then, it will be time well spent.

Investors and analysts

When the IPO process has been planned, it is important to start meeting up with investors, analysts and banks to hear their views of the company, but naturally not until the company has been in contact with NASDAQ. The latter will undoubtedly be able to give a lot of advice on the further process, on their knowledge of specific investor appetite for small listed companies and on the process as such.

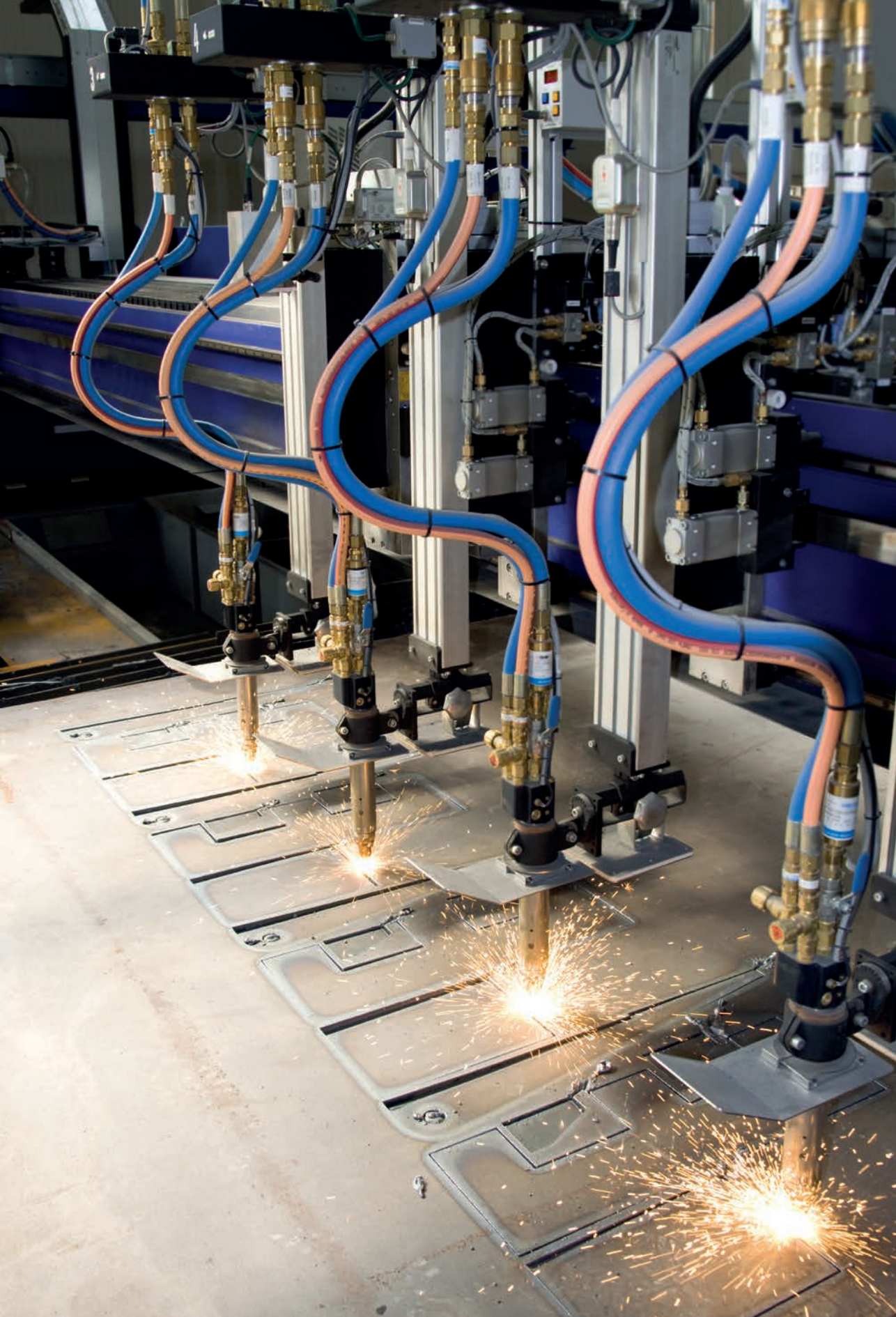
For several years, AMBU has been a stock market rocket and living proof of a small Danish company having made it big on innovation, resourcefulness and strong communication. AMBU shareholders who were in it for the long term from the outset have made a fortune.

Most banks and investors are interested in hearing about exciting companies and their plans. It is therefore nowhere near as difficult to get in touch with the right persons as most people think. Here, too, it may be a good idea to spend some time at the outset to find the investor type(s) and corporate finance houses which may be interested in the company and the industry. At the same time, it is important to understand or ask questions about the decision-making structure of the investors concerned. Is it a lengthy process with much bureaucracy, or is there a direct line to the decision-makers?

Once this stage has been completed and interest has been created, the next phase comes: The actual way onto NASDAQ.

The awareness building activities may be based on the following:

- Is the information material about the company up to date (brochures, annual reports, logo, website)?
- Does the company do what it says and say what it does?
- Is the information material intended to also meet the needs of the investor market?
- Has the company spoken with a serious and professional communications adviser who knows the investor market?
- Does the company issue regular press announcements about its activities, development and results?
- Does the company have special contact with named business reports or newspapers/magazines?
- Does the company have a strategy/policy for external communication?
- Is the company prepared to communicate good news and bad news in a serious manner?



10. INVESTOR PRESENTATIONS AND ROADSHOWS

By Jesper Langmack, CIO – Equities and Alternatives, Danske Wealth Management and Danica Pension

When a company is contemplating an IPO, it is essential to achieving a successful outcome that the company opens a dialogue with the biggest potential investors early in the process as the investor must first get to know the company.

As a major investor, we have extensive knowledge of listed companies. We know about the drivers of corporate value and risks and how to get good coverage from equity analysts. When a new company is contemplating an IPO, we need to be introduced to and educated in the market and the company so that we may relatively quickly gain an understanding of its market position, value drivers, business model, finances and management.

In addition to studying former annual reports and the prospectus, which is very much a backward-looking exercise, this introduction is best done by being in **contact** and holding **meetings** with the following stakeholders, who can contribute with more forward-looking perspectives on the business:

Advisers

Advisers – typically ECM departments at investment banks – have an excellent understanding of how we as an investor look at an investment, and can give a concise and easy-to-understand presentation of the company. An ongoing dialogue is also highly valuable as the advisers can coordinate meetings, questions and briefings on the process.

Management

The management can explain the details of the business in their own words, and in some cases it will also be an advantage to actually visit the company (site visits). Meetings with management are very central as the management team needs to be first-rate to catch the investors' interest. **We generally prefer to meet with the management team one-on-one**.

Owners

The owners can give their views on what they see as the rationale behind the contemplated IPO and what they intend to do after the IPO. If the company is contemplating an issue of new shares, it is important that there is a clear-cut strategy for spending the capital so that the money will not just lie unused in the company. In that case, we would be better off investing our funds in other companies. At the same time, it is important to understand whether the current owners wish to remain as long-term owners or whether they wish to gradually sell their shareholding.

If brought on board early, we can establish a dialogue with the company and the advisers so that we may better understand the company and so that the company can present itself in the best way possible – e.g. with a clear-cut and understandable business strategy – when the company choose to go forward with the IPO. That is in both parties' interest. The more information we have, the greater the chances that we will buy shares in the IPO and at a higher price as this may increase the valuation through higher expectations to earnings and a lower risk premium.

It would be a good idea to contact us already several months in advance so that we may allocate resources to examining the investment and seeing if the company develops in the way that was expected on initial contact. **Generally, it is an advantage to make contact via the advisers, owners or management who know the requirements to an IPO so that the quality of the presentation is very high already the first time around**.

When the IPO as such begins, it is a clear advantage if the company is covered by analysts from several banks so that we will see the investment case from several angles. It is also important that they continue to cover the company after the IPO to maintain liquidity in the share and constantly offer different views on the investment case.

It being more resource-intensive for us as an investor to invest in an IPO, we will also have certain expectations when we choose to spend time on the company at initial investor presentations and roadshows. We expect that the share will be fairly priced with an IPO discount so that we will see a return on our investment the first day, and that we will receive the share allocation requested. We do not want to see the allocation requested by ourselves and other long-term investors being awarded to a fortune hunter who shows up at the eleventh hour when it is clear that the IPO will be successful. In addition, we are not interested in many small shareholdings. This means that in most cases, the company must have a considerable size when the IPO is carried out or that we are sure to receive the allocation requested.

Finally, it is important that the selling shareholder keeps a substantial shareholding under lock-up so that the existing owners will also be financially exposed to the developments in the company post IPO.

In 2016 and 2017 we participated in a large number of the Nordic IPOs, all of which were characterised by the above process, and **we look forward to participating in other successful IPOs**.

As a large Danish institutional investor we find it important to take responsibility and play an active part in this process to pave the way for attractive companies wanting to raise new equity on NASDAQ, but in some cases we will also consider companies opting for a listing on other market places. Recently, the initial dialogue also resulted in a decision on our part to invest in some companies before a potential IPO, one example being Net-Company. In the future, we will be open for similar investments.

Bearing in mind that we are presented with a great number of investment opportunities, it is important to present a clear and concise investment case which is backed by market data and financial information already on initial contact.

The following list may serve as inspiration when drawing up investor presentations:

- **Investment highlights**
  Brief description of which specific aspects of the market and the company make it attractive to invest in this particular company.
- **Market description and position**
  Market growth, market share, competitors, entry barriers, customer and supplier concentration as well as bargaining position.
- **Business model and strategy**
  What does the company do, and what enables it to generate earnings above the cost of capital, and what is the strategy for increasing/maintaining earnings? Description of the business model must be backed by financial information.
- **Value drivers**
  Which factors are important to the value of the company and how are they expected to develop in the coming years?
- **Risk factors**
  What are the biggest risk factors for the company and their probability, and how will they affect finances? Does the company have any major commitments?
- **Financial information**
  Show detailed financial information focusing on parameters such as revenue growth (including organic), gross margin ratio, EBITDA margin, EBIT margin, cash conversion, capex, working capital and interest-bearing debt.
- **Rationale behind IPO and use of proceeds, if any**
  Make sure to explain exactly why the company wishes to sell and why an IPO. is the obvious choice rather than a sale to strategic buyers. If new capital is raised, there must be a clear-cut plan for how to spend it. For example, the funds could be used to reduce debt to an acceptable level or finance acquisitions – if the latter, it is important that the company is able to demonstrate its track record in this area.

11. THE EXTERNAL ADVISERS

The company has decided that the time has come to apply for a listing of its shares on NASDAQ. Which external advisers and agreements with such advisers are necessary to that end?

Except for the auditor's services in providing the report in the prospectus, there are no requirements in Danish law for external advisers to participate in an IPO.

However, even the biggest listed companies which raise capital via the stock markets use external advisers, also if the necessary expertise is available in-house. And in practice, **it would be inconceivable for a company to go through the process of an IPO without using external advisers**.

Apart from the need for advisers with the necessary insight into and hands-on experience with the comprehensive rules of stock exchange law and the investor market, the assistance of external advisers is also seen by the market as a seal of approval of the process in general and of the prospectus in particular. It is probably still true, although today it is only the company's management – the board of directors and the executive board – who sign the prospectus as such and are therefore responsible and liable for the entire prospectus. Formerly, also the financial adviser and the company's auditor(s) had to sign the so-called prospectus reports and declarations in the prospectus, see the section entitled "Preparation of prospectus".

The unfortunate outcome of the well-introduced IPO of OW Bunker shows that even with some of the best qualified advisers, there is a risk of subsequent problems, regardless of the reason why.

Which external advisers

For many years, major Danish companies – whether IPO candidates or already listed – have used an increasing number of advisers, Danish and foreign, when listing their shares on NASDAQ and for subsequent capital increases. If the plan is to also have a share listed on a foreign market place, the need for foreign advisers is obvious. The same is true if a significant part of the company's shares are expected to be subscribed for by or sold to foreign investors, e.g. in the US.

In a world where compliance and liability are at the forefront of many people's minds, many feel a need to have as many advisers as possible to check each other and ultimately tell the company's management and shareholders that things are okay.

From our point of view, it is fine to use advisers, but the advisers must have a purpose with their services. At the same time, it is still crucial that the company's management – and not only the advisers – can vouch for the statements made about the company and its operations and prospects.

The trend of retaining an increasing number of advisers has spread as an "established practice" from the largest IPOs to those in the segment just below. The same is true of the typically very extensive prospectuses which with reference to "established practice" seem to be rather alike in terms of size, regardless of whether the company is big, medium-sized or small from a stock market point of view. It goes without saying that a greater number of advisers will usually result in a more complicated and costly process.

Most small and medium-sized Danish IPO candidates will not need the same number of advisers, including foreign, but will find Danish advisers sufficient. And only one of each kind. It was therefore quite innovative to see the NASDAQ First North listing of Conferize and the simplified basis of listing.

Conferize's shares were admitted to listing on NASDAQ Firth North in the summer of 2017. As a result of the then rules, a prospectus was required, but in a smaller format – 63 pages in total. Orphazyme, which had its shares listed on NASDAQ's main market in the autumn of 2017, issued a prospectus of 200+ pages. The description of risk factors took up 3½ and 15 pages, respectively. This illustrates the difference in complexity between the two companies, but also how different the preparation of a prospectus may be.

The financial adviser

The financial adviser (corporate finance/investment banks) will typically lead the process of the IPO or the capital increase and facilitate the company, its management and owners concerning, among other things, an appropriate capital structure, offer price and volume, handle the work involved in the prospectus and be responsible for advising management on the allocation and pricing of the shares.

Financial advisers may be independent or form part of/be affiliated with a bank or an auditing firm. However, more important than the adviser's ties is if the company segment on which the adviser focuses matches that of the company's.

International corporate finance houses and investment bankers are geared in all respects to service the biggest companies – on an international scale – and their set-up and cost structure therefore typically do not match the needs of a small Danish company wanting to be safely introduced to the Danish market. This type of advisers will often decline politely if they are approached about a project that is "too small" for them.

One of the aspects that should be considered is always if the company's own bank alone would be sufficient or if a completely independent financial adviser with no special interest in the IPO should be chosen. Minor local (Danish) or regional (pan-Nordic) financial advisers will usually be better geared to assisting small and medium-sized IPO candidates.

In connection with the largest IPO's it is not unusual that companies/ shareholders engage an adviser to advise on the process and the selection as well as ongoing control of the advisors leading the IPO process. Thus, yet another layer of advisors are introduced in the process.

Ved de største børsnoteringer ses det, at virksomheder/aktionærer engagerer en rådgiver, der skal rådgive om processen og udvælgelsen af samt løbende kontrol med de børsførende banker. Dermed kommer der endnu et lag ind i rådgivningsprocessen.

The legal advisers

The company's legal adviser in the process will typically assist with the initial and often very important prepping of the company, which precedes the IPO as such, including preparation for and completion of the company's process towards "having everything neat and tidy" and own due diligence exercise, negotiations with the other advisers, the process of preparing and completing the prospectus, contributions to the verification process, if any, and completion of the company law aspects of the capital increase.

Often, those services will be provided by the company's usual lawyer if he or she has the necessary experience with IPOs and capital increases. Particularly the preparation of the prospectus and the contact to and negotiations with public authorities, including especially communication with the Danish FSA, the banks and NASDAQ about the prospectus, require insight into the comprehensive statutory and regulatory basis and hands-on experience with such processes.

If the company's usual lawyer, who may be a member of its board of directors, does not possess this kind of expertise, the company is recommended to retain a law firm that may supply the necessary expertise well before the process is scheduled to begin.

Over the years a practice has evolved where the financial adviser retains a legal adviser of its own choice – at the company's expense – in the form of a law firm with experience in stock exchange law. Originally, the purpose was for the lawyer – as the so-called impartial legal adviser – as the main task to verify the final draft prospectus. Over time, however, a practice has evolved where the financial adviser's lawyer participates in the total process, including the prospectus process, and also performs some of the tasks which the financial adviser used to perform. Depending on the circumstances, the lawyer may perform a more or less extensive due diligence investigation of the company on behalf of the financial adviser, see the section headed "Verification". Solid prepping of the company before the IPO process is initiated will greatly reduce this duplicated work.

Auditor

Typically the auditor elected by the company's general meeting will provide the necessary assistance in the process of preparing and completing the IPO. Apart from the presumed expertise in accounting requirements to listed companies, it is a statutory requirement that at least one of the company's elected auditors is a state-authorised public accountant if the company is to be listed on the main market. This requirements does not apply to companies opting for a listing on the First North market. Auditing or legal competencies in particular may be necessary if the company's tax or corporate issues are particularly complicated, e.g. because of a complicated group structure that was decided on many years ago.

The auditor is an important adviser in the listing process, particularly because the auditor will issue a report if the company has included its earnings expectations for the coming period in the prospectus. In addition, any transition to IFRS for the annual report may involve quite some work for the auditor.

Communications adviser

The direct communication with potential investors and the banks that will manage investor subscription goes via the financial adviser. However, many IPO candidates hire a communications adviser to advise on and assist in the more media-oriented communication about the IPO, see section 9.

Certified adviser

First North is subject to considerably less regulation than the NASDAQ main market, which can also be seen from the fact that the companies wanting to be listed on the First North market are typically smaller than those opting for the main market. In order to ensure that also the small companies comply with the requirements of First North, companies listed on First North must retain a certified adviser. The certified advisers will also have an agreement with First North. The role of the certified adviser is to ensure that the company complies with the admission requirements and the obligations that follow from having shares listed for trading on First North. In addition, the certified adviser will check on a regular basis that the company complies with the rules of First North and immediately report any violations. Advisers wishing to obtain the status of certified advisers may submit an application to Nasdaq in accordance with rules issued by NASDAQ in this regard.

Now that the threshold for share offers with no prospectus on First North is increased, the responsibility for an accurate company description and a properly run business will largely depend on the certified adviser's opinion. This way, the certified adviser becomes an auxiliary arm to NASDAQ.

> Most small and medium-sized Danish IPO candidates will not need the same number of foreign advisers, but will find Danish advisers sufficient. And only one of each kind.

What are the crucial aspects to consider when choosing your advisers

Apart from the obvious aspects – the requisite expertise in stock market law and perhaps in special cases experience with the industry in which the company operates – it is very simple, as is often the case when it comes to choosing your advisers: Does the company feel the necessary chemistry and trust between management and the adviser, and do they "speak the same language"?

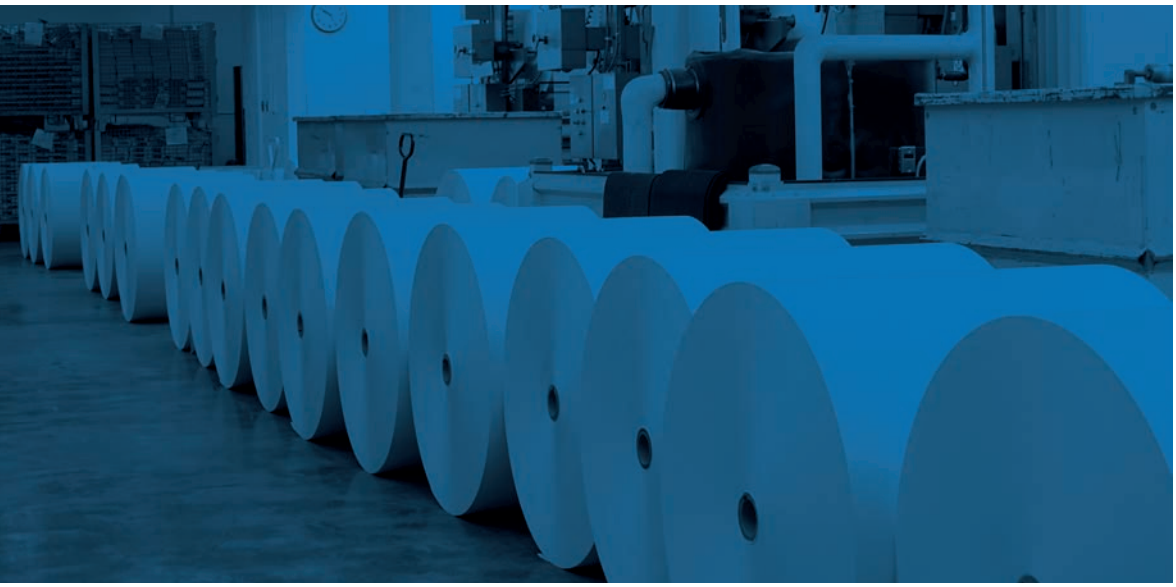
Most companies prefer no nonsense advice and want an adviser with a practical and hands-on approach to the job: **Focus on the solution and do not complicate it unnecessarily, however much you would like to showcase your expertise.**

The issue of the costs of an IPO, including advisers' fees, is inevitably also an aspect that is important to companies. In our experience, however, this is usually a secondary aspect as most companies will first and foremost want to secure the necessary expertise and the "right" advisers and, once they are on board, the parties can then agree on the details of the fees, see section 18.

Selection process

The best scenario is for the company to have its legal adviser and auditor in place well before the IPO – maybe even years before.

The company may choose its advisers in a number of ways. The mouth-to-ear principle, a more structured screening process or even a beauty contest – the choice of financial adviser in particular is often based on a more or less formalised beauty contest where selected financial advisers are invited to present their suggestions as to how to best implement the IPO, the offer price envisaged and the main investor types to be targeted.



When should advisers be involved

External advisers are not infrequently involved at a late – too late – stage of the process, typically because the company believes that it will save costs, among other things because this leaves them with less time to do billable work.

Viewed in isolation, it may naturally be a legitimate choice not to initiate a costly process until some certainty has been obtained that it will actually be possible to complete the process. Still, it will typically be a good idea to involve the external advisers – or some of them – as early in the process as possible, initially in order to involve them in the planning of a process which is as appropriate as possible. At the same time, it will be possible to plan the subsequent process, including when it will be most appropriate to involve the external advisers in specific tasks such as the company's due diligence investigation, the prospectus, etc.

All experience shows that the better prepared the company is before the process is initiated, the lower the costs of advisers will be, see the section headed "neat and tidy".

Agreements – why

Although the focus is often on especially advisers' fees, this subject is far from the most important part of the contractual basis of the advisory services which the company and each adviser should have discussed and agreed on before the work is initiated. This is true for Danish as well as foreign advisers.

> One central aspect is to ensure that there is no gap between the advisers and their services and that there is not too much duplication of work.

One central aspect is to ensure that there is no gap between the advisers and their services and that there is not too much duplication of work.
The legal position of the company vis-à-vis the adviser is determined by the terms agreed by the parties. In the absence of such agreement, the Danish courts will imply terms. In some areas, the substance of such implied terms is quite clear, but in other areas, it is more uncertain. For this reason, too, it is recommended, even necessary, to ensure that all material aspects have been **agreed clearly and in writing in advance**.

What aspects to include in the agreement

Where the expertise of different advisers overlap, it is also important for everyone to decide which of the advisers will handle – and be responsible for – the advice on that aspect. For example, will the legal adviser or the auditor advise on tax matters? If the answer is the auditor, it should be specified in the agreement with the auditor as well as with the legal adviser so as to avoid any doubt.

The responsibility related to the completion of IPOs may be substantial, economically as wells as to the advisers' reputation. Economically all advisers will attempt to limit their responsibilities to a minimum through clauses in the contractual framework and thus deviate from the general rules of Danish Law.

Contractual basis

The agreements with the advisers are typically based on standardised letters of engagement/confirmation letters and general terms and conditions specifically for IPOs.

Today, the sheer size of those agreements and the issues they govern are often quite significant and not infrequently clearly inspired by similar foreign agreements, particularly if they are concluded in the US and the UK.

If the agreement concerns a purely Danish IPO, a significant part of the "globalization" of such agreements may well be dispensed with. In this connection, too, it is a good idea to start these discussions **early enough** to have time to negotiate satisfactory agreements as the company must otherwise simply accept terms without any negotiating leverage.

Overview for the decision of whether and how to use external advisers:

- Which type of IPO is the company looking for – global or Scandinavian?
- Study and regularly evaluate the market for the relevant advisers
- Do the company's current advisers possess the expertise required for an IPO?
- Which financial advisers should the company use?
- Is there time enough for a beauty contest?
- How may costs be reduced by a structured process?
- Have all agreements and appendices set out in writing from the outset, while there is still time.

12. TIMING

Timing is everything.

When a company is about to launch an IPO, everything should come together and form a synthesis and the following quite essential elements should be in place:

- The owners are ready
- The company is ready
- The management is ready
- The company's market prospects must be good
- The stock market must be good
- The prospectus should be based on a recently presented annual report

The element about the company being ready is described in more detail in the section headed "Order in the house"[Keeping it neat and tidy?]. In addition, the company must also plan on the expectation that no major changes will occur in the period up to the IPO such as major acquisitions or disposals, and nor can there be any indications of major changes to the company's market conditions taking place.

The element about the management being ready involves several aspects which are discussed in the section headed "Management": As a first step, the expertise, effectiveness and also the experience of the members on the executive board and the board of directors must be in place. The next step is for the management to be ready for the additional pressure which is an inevitable part of an IPO process. This, too, can and must be trained, and for that to happen a period of full attention to the process is needed while at the same time the management must have the time, energy and mental strength to efficiently operate the business.

The element about the stock market having to be good is nearly impossible to ensure, but the global trends playing out in New York, London and the Far East will play a decisive role. There will be times when an IPO will be impossible, like after 9/11 and the Lehman collapse. But there are

also times when investor appetite is high and where you have to be ready. In our experience, there will always – outside the extreme periods – be room and scope for an IPO of most well-run companies, which is what this book is about.

The most recent Danish IPOs – large and small – have shown great interest from and investor appetite in the Danish market. With the many expected political initiatives to boost equity culture in Denmark, this interest may be expected to continue.

The annual report must be ready for use in an IPO process. One crucial aspect in the process towards ensuring a smooth and swift IPO process is the annual report and the timing of the process in relation to its presentation. The financial statements of companies listed at the main market must be presented according to IFRS standards, which is not the case if they are listed on First North. This sounds difficult, but after the first presentation it becomes a habit. An owner or management considering an IPO or sale of the company internationally should not put off the work of prepping the financial statements for a transition to IFRS standards. Get it done while no other pressure is on the company. Also see the section headed "Financial statements and budgets".

The elephant method

Now then, how do the company and the management make sure that all these things come together and form a synthesis: By using the "elephant method", which is a Danish expression meaning **to split the process into small manageable pieces** and responding to the challenges one by one, while there is yet time to do it. After that, the market will be all the company has to concentrate on in the final and most stressful, yet also decisive phase. The rest has been dealt with a long time ago.

Considerations in relation to timing may be based on the following:

- Is everything "neat and tidy" in the company?
- Have the company's annual reports been converted to IFRS, if relevant?
- Is the company on the right track, in terms of operation and cash flows?
- Is the company in a good and predictable state?
- Are management and the management team in place?
- Is the stock market stable or going up?
- Is investor interest there and perhaps even secured?

The actual IPO process could be based on the following:

- Make a realistic timetable
- As a company, keep tight control of process and suppliers for the process
- Coordinate the timetable early on with authorities
- Stick to the fast track model

13. THE IPO PROCESS

The process of the actual IPO is an intense period for the company and its management. The company must reach a specified goal, and will it succeed in spite of all the formalities that are associated with the process? The answer is yes, fortunately.

It is important for the company to optimise the IPO process as much as possible, and a timetable for the overall process is therefore essential. The most straightforward approach is to base the IPO process on a recent annual report. This will save not just time, but also costs.

One of the first things that the company must consider is which kind of offering it seeks. Does it want to sell its existing shares, issue new shares or a combination of the two? Next, the company must consider where to have its shares listed. Does it want to have them listed in Denmark or abroad – and on First North or the main market?

In either case, the process is largely the same, but companies opting for First North face less strict requirements. With the **new** Capital Markets Act (kapitalmarkedsloven) which enters into force on **3 January 2018**, no prospectus will be required on First North if the offering is less than EUR 5 million in total[1].

	Admission to trading	Offering worth less than EUR 2.5 million.	Offering worth less than EUR 5 million[1].	Offering worth more than EUR 5 million[1].
First North DK	Company description - no prospectus required*	Company description - no prospectus required	Company description - no prospectus required	Prospectus required
First North SE	Company description - no prospectus required*	Company description - no prospectus required	Prospectus required	Prospectus required
Main market	Prospectus required	Prospectus required	Prospectus required	Prospectus required

* Unless the offering is higher than the thresholds stated

[1] The Danish Parliament is currently discussing a proposal from the Danish Government to raise the threshold to EUR 8 million.

When the company and its management and advisers have determined the above and set a timetable, the next step is to involve the relevant institutions – the Danish FSA, NASDAQ, bankers, etc. – as soon as possible for their approval of the timetable. If no prospectus is required, it will not be necessary to involve the Danish FSA.

Normal and fast track procedures

As the prospectus approval authority, the Danish FSA is a crucial player in the IPO process. As a result, the FSA has adopted a fixed procedure for prospectus approval.

The procedure and thus the timetable are based, among other things, on the experience that prospectuses are often incomplete when first submitted to the FSA. Therefore, the early involvement of the FSA is not just a means for the company to start off the procedure and obtain input to the prospectus contents – rather than an actual examination. Accounting figures or important details about the business, expectations, etc. may be missing, and the actual examination will therefore naturally be a summary process at this early stage.

The Danish FSA is aware that the procedure may be expedited if (i) the FSA is notified in advance and (ii) the material is complete when first submitted to the FSA. The latter limb places much larger requirements on all groups of advisers and on the company at an early stage, but for the company it will pay off, financially as well as in terms of workload, to take a sense of urgency approach.

Approvals

The prospectus must be approved by the FSA, and NASDAQ must approve that the shares are admitted to trading (and official listing) on the market. If no prospectus is required, NASDAQ will require that the application of IPO is accompanied by a company description. The company description is very similar to a prospectus in content and form. Only, it does not have to be approved by the FSA.

The Danish FSA

The role of the FSA is to oversee formal compliance with prospectus law in the broadest sense of the term and thereby ensure that potential investors receive the necessary information, i.e. the information required in relevant prospectus law, see the section headed "Preparation of prospectus".

It is worth noting that the FSA will only issue a **formal approval** of the prospectus, i.e. an approval that the prospectus formally satisfies the contents requirements of prospectus law. Hence, the FSA's approval does not concern the substance of the prospectus. However, the boundaries between substance

and formal contents are fluid, and the FSA will almost invariably touch on the substance of the prospectus in connection with its reviews. Questions to and comments on the substance and its accuracy are therefore common practice.

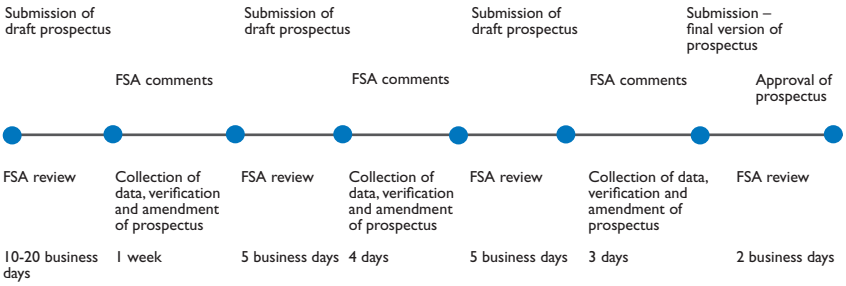
The FSA has up to 20 business days to complete its first prospectus review in connection with an IPO if the prospectus is complete when submitted (10 days if the prospectus is only for a capital increase). The examination of prospectuses which must meet a number of complex requirements and often contain complicated information may – and often will – be put on hold by the FSA pending additional information or answers from those involved in the process. This means potential delays in the timetable to the detriment of the process. There is rarely a lot of time to spare when a company has embarked on the IPO process, and it may be challenging and costly to deal with delayed deadlines.

It would be unusual for a prospectus to be approved after the first draft submitted to the FSA. The guidelines issued by the FSA in this area provide that the prospectus will usually have to be submitted for review four times, the first review being the most time-consuming. The last review is often being carried out very quickly within two or three business days or even as little

as 24 hours. Importantly, there must be time in between the FSA's reviews to answer the FSA's questions, retrieve and verify relevant additional information and elaborate on subjects and information presented in the prospectus. Depending on the number of FSA questions and comments, this process may take anything from a couple of hours to several weeks.

As a result of the FSA's reviews of the prospectus, the company and its advisers will receive a number of comments, questions or requests for additional information on specified parts of the prospectus. Those comments etc. will be presented in a table, and the table must subsequently be returned in an updated version together with the amended prospectus for the FSA's next review. The procedure ends with final FSA approval of the final and signed prospectus.

The typical approval process



In practice, however, this part of the process may be expedited if the company goes into the process well-prepared and of course involves the FSA early in the process.

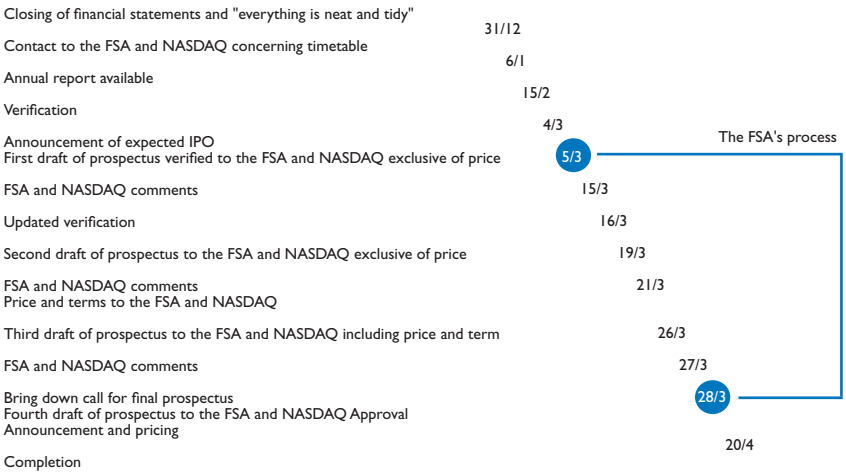
Fast track procedure

According to an FSA memorandum from January 2017, share prospectuses may be examined in a fast track procedure. The fast track procedure is also known from prospectuses concerning corporate bonds, see section 21. The memorandum specifies that the fast track procedure is only available to companies whose securities are already admitted to trading. In practice, however, the model will often be available if requested. The primary blocker to using the fast track procedure is therefore most often that the companies are not ready and cannot submit a finished prospectus.

According to the FSA, in order for share prospectuses to qualify for the fast track procedure, "the prospectus submitted to the FSA **must** be thoroughly prepared and have no outstanding issues, the prospectus **must** follow the structure of the EU Prospectus Regulation or be accompanied by a detailed cross-reference list and annexation and, finally, the FSA **must** have received a timetable for the approval process before the prospectus was submitted".

Below follows an example of how the fast track procedure may play out:

Fast track procedure



With the proper groundwork, it is thus possible to significantly shorten the approval procedure and thereby also the total amount of time. Completing an IPO in less than four months is not – on the above basis – unrealistic.

Capital increase in four weeks

When Stylepit A/S effected a capital increase in the summer of 2015 (which received a lot of media coverage), it was a matter of life and dead, and everybody was under pressure so a very rough draft prospectus was therefore submitted very fast. The Danish FSA's first review resulted in 56 comments, which is not alarming in itself. Many of the comments were substantive in nature. Nevertheless, the whole approvals process from initial submission to publication of the prospectus took less than four weeks.

To add a little zest to the whole story, a takeover bid was made for the company's shares in the middle of the offer period, which together with the full subscription of the capital increase contributed to the company's survival.

NASDAQ

In addition to FSA approval, the company must obtain NASDAQ's approval for an official listing of the securities, and NASDAQ must therefore be notified of the plans as early in the process as possible.

NASDAQ is a privately held company whose interest is to ensure that the trading platforms it operates work in the best way possible and that the companies whose securities are admitted to trading meet the standards desired by NASDAQ.

NASDAQ has laid down a number of requirements which must be satisfied by the companies seeking to have their shares admitted to trading on its markets. In addition, NASDAQ must also ensure compliance with the official listing requirements laid down in Danish law and the FSA's practice. This includes requirements that a company seeking an official listing of its shares **must** have existed and submitted annual reports for the past three financial years, that the shares **must** be freely negotiable and that a market capitalisation of at least EUR 1 million is expected. In addition, there is a requirement that a sufficient number of the shares **must** be distributed to the public. Exemptions to some of the above requirements are available and will be granted in individual cases.

NASDAQ has included the above requirements in a set of rules, "Rules for issuers of shares". The rules specify that the company must have a "sufficient number of shareholders", and that 25% of the total share capital (or the class in question) must be in public hands. The expression "in public hands" means a person who directly or indirectly owns less than 10% of the company's shares or voting rights. If that is the case, the shares will be sufficiently in public hands to be admitted to trading and official listing. It is important to note that any shares held by natural or legal persons that are closely affiliated with the company and by shareholders having pledged not to divest their shares during a protracted period of time (also known as a lock-up period) will count in the calculation in a special way. The share distribution percentages may be departed from, however, if deemed to be justified in the specific situation and if sufficient share distribution is ensured in each case, e.g. by the commissioning of a liquidity provider. Our point of view is that NASDAQ will look favourably on a request to relax both the number and the percentage if the company and the IPO process are operated professionally.

If the company is opting for First North, the requirements are generally less strict. For example, it is sufficient that only 10% of the company's shares is in public hands, there is no requirement for IFRS financial statements and there are not the same requirements to share distribution.

The company must submit an application to NASDAQ for admission to trading and official listing. Before submitting a formal application, however, the company must request NASDAQ to "initiate a listing process".

The request must:

1. State the reason for the admittance and official listing application
2. State how the proceeds will be spent
3. State the company's share capital/number of shares (if relevant with information about share classes and an indication of differences between share classes)
4. State the size of the share offering, broken down by new and existing financial instruments, and specify the type of offering
5. List the financial intermediary/intermediaries handling the share offering on behalf of the company

The request must be accompanied by the following documentation:

6. Concrete, precise and detailed description of how the company fulfils each of NASDAQ's listing requirements and, if relevant, the requirements for official listing
7. A draft prospectus
8. The company's accounts for the past three financial years
9. A timetable for the admission to trading and the share offering
10. The company's latest registered set of articles of association
11. A subscription/sales form
12. A copy or draft of the company's information policy and internal rules, if any
13. Documentation for the company's registration with the Danish Business Authority or other authority of registration

If no prospectus is required (only relevant for First North listings), the application must be accompanied by a **company description**. The company description resembles a prospectus in form and content. However, there is the important difference that the company description is not to be approved by the FSA.

The specific conditions to admission to trading on NASDAQ are set out in the "Rules for issuers of shares" with regard to the main market and in the "NASDAQ First North Nordic – Rulebook" with regard to First North.

When the process of preparing the prospectus has started, it is not difficult to satisfy NASDAQ's requirements, but it may be difficult to understand that two institutions, the FSA and NASDAQ, each with its own approach, have to approve more or less the same things.

NASDAQ's approval of the shares for admission to trading and official listing must be clarified before the deadline for FSA approval, except in very extraordinary cases.

Announcement and completion

Before the FSA and NASDAQ approvals are available, the company must announce its intention to conduct the IPO and offer the shares. The company does so by announcing "its intention to float". The offering as such must be announced as soon as practically possible, in reasonable time and no later than when the offering begins.

Extract from Orphazyme A/S company announcement of November 6, 2017 (emphasis added):

Orphazyme, a Danish biotech company with a late stage orphan drug pipeline, today published an offering circular and the indicative price range in connection with its intended initial public offering ("IPO" or the "Offering") and subsequent admission to trading and official listing of its shares on Nasdaq Copenhagen.
(..)

- The Offering comprises:
  - Issue of new shares with gross proceeds of up to DKK 690 million (hereof DKK 90 million pursuant to the overallotment option)
  - Up to 10,781,250 new shares to be issued by the Company (assuming full exercise of the overallotment option)
  - (..)

- SEB, Vækstfonden, BankInvest on behalf of certain clients, Handelsbanken and Spar Nord **have committed, subject to certain conditions, to subscribe for a number of shares in the Offering corresponding to DKK 230 million - equivalent to 38.3% of the Offering** (excluding the overallotment option). A corresponding number of shares in the Offering will be reserved for these investors.

In connection with the offering, the shares may either be offered at a fixed price or within a spread, with the price not being finally determined until after the expiry of offer period. In these cases, the offer price is determined by a book building process based on the purchase/subscription orders received.

Example of floating price offer from Orphazyme's company announcement of 6 November 2017:

The Offering in brief

- Indicative offer price range of DKK 64 to DKK 80 per share of nominal value DKK 1 each
- Implied market capitalisation of DKK 1.5bn to DKK 1.6bn after the issuance of new shares in the Offering (excluding potential exercise of the overallotment option also consisting of new shares and assuming full exercise of pre-IPO warrants)

The prospectus must be announced in one of the following ways:

- By advertisement/announcement in one or more daily newspapers of national or widespread reach
- In printed form (to be made available at NASDAQ's offices and at the financial companies placing or acting as intermediaries in the sale of the securities)
- In electronic form on the issuer's website or, where applicable, on websites belonging to the financial companies placing or acting as intermediaries in the sale of the securities, including financing bodies
- In electronic form via the information system on the regulated market (NASDAQ)

In the real world, the announcement is typically communicated in all of the above ways as the whole point is to sell the shares. Although it is a sale (an offering) of shares that is taking place, advertising and promotional material is also subject to restrictions as this material must be true and fair. The intention is, of course, to avoid "twisting" of facts that are accurately described in the prospectus.

According to established practice, there is a subscription period of at least two weeks in which investors may commit to subscribe for shares. Once the subscription period ends, the issuer and its advisers will know how many shares need to be issued and (if the price was based on a book building process) at which price.

An investor may purchase or subscribe for the offer shares by using the order or subscription form provided in the prospectus. The order or subscription form must be completed and submitted to the investor's own bank, which will then contact the company's bank.

Allotment of shares

When the subscription period ends, the shares will be distributed (allotted) based on the subscription and purchase forms received – that is, if the issuer decides to go through with the offer and thereby also the IPO.

The issuer may encounter unforeseen events in the offer period which render the completion of the IPO impossible. For example, another 9/11 could take place, a fire at a supplier's premises could render supplies impossible for a period of time or fraud could be detected in the company during the offer period. If such events occur, the company may choose to withdraw the offering and then discontinue the IPO process. Not a very desirable scenario, but it may be a wise decision in the circumstances.

Most often, however, the IPO and the offering of shares will attract far more interest than anticipated. In that situation, the company will have the rather pleasant problem of not being able to supply all of the shares that are needed if the company is to fulfil all purchase orders and subscription commitments. If the orders/subscription commitments received exceed the number of offer shares (oversubscription), the prospectus must specify who will be in charge of allotting the shares. Often, the board of directors will be authorised to allot the shares in the company's best interests. The allotment will take place immediately after the expiry of the order or subscription period when the company and its advisers have a full picture of the orders received.

Extract from TCM Group A/S's offering circular of 13 November 2017 (emphasis added):

Reductions of purchases
In the event that the total number of Shares applied for in the Offering exceeds the number of Offer Shares, reductions will be made as follows:

- With respect to applications for amounts of up to and including DKK 3 million, reductions will be made mathematically.
- With respect to applications for amounts of more than DKK 3 million, individual allocations will be made. The Joint Global Coordinators will allocate the Offer Shares after agreement upon such allocations with the Board of Directors and the Selling Shareholder.
- **Up to 32,000 Offer Shares (corresponding to 0.46% of the Offer Shares) will be reserved for orders placed in the Offering by the Board of Directors and the Executive Management. Please see section 29.2 "Terms of the Offering".**
- **Up to 3,500,000 Offer Shares (corresponding to 50% of the Offer Shares) will be reserved for allocation to the Cornerstone Investors. Please see section 29.2 "Terms of the Offering".**

As can be seen from the example, in case of oversubscription it is possible to differentiate between the different types of investors when the shares are allotted. This option is reserved by the company and its financial advisers for the very purpose of ensuring that, if possible, new major shareholders will have the number of shares requested, thereby fulfilling a significant investor request, see the section headed "Investor presentations and roadshows", and also for the purpose of ensuring that management, anchor investors and, if applicable, employees can subscribe for shares without any reduction.

Over-allotment – "greenshoe option"

In case of oversubscription, more shares will often be allotted than the number originally offered. The additional shares will typically be made available by a major shareholder of the company – also known as an over-allotment option.

Extract from TCM Group A/S's prospectus announcement of 13 November 2017 (emphasis added):

Highlights of the Offering:

- Indicative offer price range of DKK 90 to DKK 105 per share of nominal value DKK 0.1 each.
- The indicative price range corresponds to an implied market capitalisation of DKK 900 million to DKK 1.05 billion.

The Offering comprises

- An offering of up to 7,000,000 existing shares, equivalent to 70.0% of TCM Group's share capital, excluding an overallotment option.
- **An overallotment option of up to 1,050,000 shares, equivalent to 10.5% of TCM Group's share capital, has been granted to the managers by the Selling Shareholder. The overallotment option may be exercised in whole or in part during a period of 30 calendar days after the first day of trading and official listing on NASDAQ Copenhagen.**
- Up to 32,000 shares, equivalent to approx. 0.46% of TCM Group's share capital, have been reserved for purchase by the board of directors and the executive management

Central Securities Depository

In order for the shares to be admitted to trading on NASDAQ, the shares must be registered with a central securities depository. VP Securities A/S is currently the only company in Denmark with a licence to operate as a central securities depository. Accordingly, VP Securities plays an important technical role in all Danish IPOs and issues. VP Securities is subject to supervision by the Danish FSA.

In Denmark, listed companies are no longer required to issue paper-based share certificates. Everything happens electronically via VP Securities.

The role of VP Securities in an IPO is therefore to record all transactions and handle the actual transfer of shares to their new owners. All recording and issue activities are effected electronically. The new shareholders must all designate a VP Securities account into which the individual investor's shares will be transferred. This VP Securities account must be with the investor's bank, and it is also the investor's bank which handles the practicalities involved for the investors.

Most non-listed companies have not registered their shares with VP Securities, which means that such registration must be effected in the course of the pre-IPO process. If physical share certificates have been issued, VP Securities will demand that they are submitted to VP Securities in a custody account before registration can be effected. If the company's share certificates have been lost or if the register of shareholders is defective, the share certificates must be cancelled extrajudicially before the issue via VP Securities may be effected. In this situation, the company must prepare to see the listing of its existing shares, and thereby the entire process, being delayed.

If the investor is a foreign player, the investor's bank will often have a Danish correspondent bank which may hold the shares in its VP Securities account. If the investor is a bank customer of foreign securities depositories such as Clearstream or Euroclear, the transaction may be completed through those two companies.

Listing of Danish shares in Sweden

Danish companies wanting to have their shares listed in Sweden may either set up a Swedish holding company and have the shares of that company listed in Sweden or have the shares of the Danish company listed directly on NASDAQ Sweden. In practice, this is done by placing all Danish shares in a VP Securities account with Euroclear (the central securities depository in Sweden). Euroclear will then mirror the shares so that the shares are distributed by Euroclear among the shareholders. In this connection, Euroclear will also record the transactions in the company's register of shareholders.

The manager bank

The new shares must be issued through a bank. The manager bank does not have to be the issuer company's usual bank, but is the bank that is commissioned to issue the shares.

The relationship between the company, the manager bank and VP Securities is governed by standard agreements between the parties.

Subscription for, payment and receipt of and trading in shares

Once the subscription period has ended, the company and the manager bank have received subscription commitments and the issue is completed, the investors must pay the subscription amount into the designated account. Subscription commitments and payments received must be reconciled by the issuer company and the manager bank in cooperation. Immediately after reconciliation, the company will instruct the manager bank to issue the shares and distribute them in the manner resolved. When the share subscription amount has been paid and the capital increase has been recorded by the Danish Business Authority, the new shares will be allocated to the VP Securities custody accounts designated by the respective investors. At the same time, the subscription amounts paid will be transferred to the company.

Following allocation, the new shares may be bought and sold in the open market. Restrictions may apply as a result of insider rules or lock-up arrangements which prevent the company's former owners from trading in the shares for a short period of time (e.g. six months), but in the absence of such restrictions, the shares may then be bought and sold in the open market.

14. PREPARATION OF PROSPECTUS

It is a statutory requirement to prepare a prospectus if the shares are to be admitted to trading on the main market. If the shares are to be admitted to trading on First North, the prospectus requirement only applies to offers, meaning the shares being sold/subscribed for, worth more than EUR 5 million[1]. If no prospectus is required, the company must instead prepare a company description, which resembles a prospectus in form and content. The most essential difference between the two documents is that the prospectus must be approved by the Danish FSA, which is not a requirement for the company description.

The primary reason underlying the prospectus requirement is that potential investors are to be provided with information about the company as well as the offer shares in a structured and regulated manner. The purpose of a company description is the same. The considerations in the below description of the prospectus preparation process also apply to the company description; the reason being that a prospectus is more than just a structured representation of the company.

From the company's point of view, the prospectus is a "sales document" the purpose of which is to convince potential investors to invest in the offer shares. The issuer must keep in mind that the prospectus has a wide target audience: On the one hand, you have the private investor, who is not likely to read the prospectus from start to finish and, on the other hand, you have the professional investor. Professional investors often know a lot about the company and immerse themselves into the details through investor presentations, meetings with management, site visits, etc. whereas private investors do not have the same possibilities. It has therefore become standard practice for companies electing to go public to invite investors to meetings where they present the company in more general terms.

[1] Folketinget behandler pt. forslag fra regeringen om at hæve grænsen til EUR 8 mio.

In connection with TCM Group A/S's IPO in November 2017, the company invited to meetings in Copenhagen and Aarhus with the following agenda (advertisement):

5:30 pm - 6:00 pm	Registration
6:00 pm - 7:00 pm	Presentation of TCM Group by CEO Ole Lund Andersen, CFO Mogens Elbrønd Pedersen and COO Karsten Rydder Pedersen
7:00 pm - 7:30 pm	Networking and refreshments

The purpose of the prospectus is thus to communicate as much relevant information about the company and the share offer as possible and not least about the concrete and at times less concrete risks (see below) attaching to the investment. The description of the risks is obviously included in the interest of the investors so as to allow the investments to be made on a sound and sufficiently informed basis, but also – and this is probably even more the case today – as a form of "disclaimer" for the issuer in the event of something going against expectations.

The ordinary private investor will probably typically read a prospectus like one big disclaimer by the issuer and professional investors really only use the prospectus to check information obtained at, for example, meetings with management - or to subsequently assess any liability in case something goes wrong.

In the wake of the tragic case of OW Bunker that went bankrupt about six months after its IPO, resulting in substantial losses for private as well as professional investors, the small print of the prospectus has been studied by everyone in connection with the considerations about the potential liability or the opposite of some of the parties involved.

Contents

The detailed prospectus requirements in connection with an IPO are set out in the EU Prospectus Regulation.

A new Prospectus Regulation was adopted in June 2017. Replacing the existing Regulation, the new Prospectus Regulation will result in a number of changes to the prospectus requirements when taking (full) effect on 21 July 2019. It is expected that the main requirements will remain unchanged, but that there will be a number exemptions for mainly small companies/small offers.

The prospectus is first of all to contain a clear and detailed list of contents, a list of and declarations and reports from the persons responsible for the prospectus, as well as **three parts**: **a summary**, which is to include various key information taken from the other two parts, **a share registration document** and **a securities note**.

Summary

The existing Prospectus Regulation lays down requirements to the contents (subjects and information) and structure of the summary. The summary must be based on prospectus schedules which must list and/or describe various subjects and information. It must be stated and explained if a subject is not relevant to the prospectus in question. This ensures a reasonably uniform structure of summaries, which makes it possible to compare prospectuses.

A limit has been introduced as to the length of the summary (either 7% of the prospectus or 15 pages, whichever is the longer).

Share registration document

According to Annex I of the Prospectus Regulation, the share registration document which is the main content of the prospectus must provide the following information:

- Persons responsible
- Auditors
- Selected financial information
- Risk factors
- Information relating to the issuer, including history, development and investments
- Business overview, including principal activities and key markets
- Organisational structure
- Properties, plant and equipment
- Operating and financial review, including financial position and results of operations
- Capital resources
- Research and development, patents and licences
- Trend information
- Where applicable, profit forecasts and estimates
- The identity of members of the board of directors, executive board and supervisory board as well as managers, including information about conflicts of interest
- Remuneration and benefits
- Board practices
- Employees, including shareholdings and share options
- Major shareholders
- Related-party transactions
- Information about the assets and liabilities, financial position and profit and losses of the issuer, including financial information, dividend policy and contingent liabilities
- Supplementary information, including information about share capital, memorandum and articles of association
- Material contracts
- Information from third parties and, where relevant, statement by experts and declarations of interest, reports or declarations in the prospectus,
- Documentation
- Information about shareholdings

As regards the company's financial information, the description must include a statement about which financial information has been audited and whether the company's auditor at some point has refused to provide the financial statements with an endorsement of approval or has given a qualified opinion. In addition, the origin of financial information which has not been taken from the company's audited financial statements must be stated and followed by a clear statement that the information is unaudited.

The above list may seem extensive, but to a company that is used to presenting a proper annual report and generally runs a tight ship, the work is not that burdensome.

Securities note

The securities note must provide information about the shares and is to a great extent a very technical section containing a number of formalities and practical information.

According to Annex III of the Prospectus Regulation, the securities note must provide the following information:

- Persons responsible
- Risk factors pertaining to the shares, material information, including working capital statement and statement of capitalisation and indebtedness, natural and legal persons' interest in the issuance/offer, reasons for the offer and use of proceeds,
- Information about the shares offered
- The terms and conditions of the offer, including conditions, offer statistics, expected timetable and action required to apply for the offer, plan of distribution and allotment, pricing, placing and underwriting
- Admission to trading and trade agreements
- Shareholders wishing to sell
- Expenses incidental to the issue/offer
- Dilution of the shareholders in a capital increase
- Additional information, e.g. formal corporate matters

Where to find the information

It takes lots of time to collect and present all information at once and not least to assess what is essential and what is not. It is crucial that no information is being "invented" in connection with the preparation of the prospectus. To many, the biggest obstacle is that **all information must be objectively documentable/verifiable** and, if that is not possible, this must be clearly stated, like: "In our assessment...". For some industries, it may be difficult to describe the market in which the company operates. Because, even if the company will often have a relatively good impression of the market in general as well as its own market position in particular, no market descriptions/markets analyses, etc. will typically be available from independent third parties. In that way, the prospectus drafting process may introduce the company to a new way of describing itself and not least intensify management's attention to the difference between the company's own perception and facts that can be documented – essential learning for the purpose of the company's future planning and communication with the surrounding world.

Except for the information concerning the actual offer, the information in the prospectus is also the information which will be used against the company from time to time (the market's legitimate expectations) and which the company must therefore also disclose in the future (disclosure obligation) - see the section headed "Life at NASDAQ" for more information.

In November 2015, the Danish company Photocat A/S was listed on NASDAQ First North in Stockholm. No prospectus was required as the offering did not exceed EUR 2.5 million (the Swedish threshold) and only concerned Sweden.

In accordance with the rules, Photocat prepared a company description, also known as an information memorandum. It resembled a prospectus in form and content. Photocat's information memorandum was similar to the prospectus used by Conferize, to take a current Danish example. Where Conferize's prospectus was 63 pages, Photocat's information memorandum was 52 pages. Photocat's section on risk factors was 2 pages long.

Since its listing on First North in Stockholm, Photocat has effected a number of private placements, raising more than DKK 30 million in total without a prospectus.

Supplementary prospectus

If, in the period between FSA approval of the prospectus and the later of the final closing of the offer to the public or the time when trading on a regulated market begins, a **significant new circumstance**, material mistake or inaccuracy relating to the information included in the prospectus occurs or is determined which is capable of affecting the assessment of the securities, a supplement to the prospectus must be published. The requirement for a supplement to the prospectus thus depends on two things: the new circumstance must be material and it must be capable of affecting the assessment of the shares. The test does not necessarily have to do with whether it may be assumed that the material mistakes, inaccuracies or new circumstances may have a significant influence on the share price, which would be the point of departure of an economist. Instead, the test is to be made on the basis of a so-called prudential assessment. The supplementary prospectus must be approved by the Danish FSA within seven business days and in general according to the same procedure as the original prospectus.

The most recent example of a supplementary prospectus being issued by a Danish company in connection with a capital increase is from the summer of 2017, when Hugo Games A/S, which is traded on the Oslo stock exchange, did not succeed in obtaining a fully subscribed capital increase before the expiry of the subscription period. With the supplementary prospectus, the company extended the subscription period until the end of June instead of May 2017.

The information in a supplementary prospectus may obviously change the investor's investment decision. An investor's right to withdraw acceptance is connected with the offer to the public and thus lapses on expiry of the offer period or at such earlier time when the offer actually closed. Before the final closing of the offer, the issuer must thus allow the investor a two-day period after publication of the supplementary prospectus to withdraw acceptance. If the material new circumstance, mistake or inaccuracy occurs after the final closing of the offer period, but before trading in the shares has begun, the issuer will still be under an obligation to publish a supplementary prospectus. In that situation, the investor will not have a right of withdrawal as the offer has closed.

Company descriptions for offering of shares on First North are subject to approval by NASDAQ. The approvals process is similar to that of the Danish FSA, except less formal and quicker provided that the company has done its homework. In this situation, the certified adviser and the other advisers will be important to NASDAQ's handling and assessment of the draft prospectus etc. submitted.

Specifically on risk factors

Share investments will always come with a risk. This fact is often forgotten where problems later occur. **Any investment thus also involves a risk of investors losing their investment in whole or in part**. That is why it is always set out in prospectuses that investors should seek advice before investing. For the prospective investor, it is the description of the potential risks involved in the investment that is relevant, including the risks relating to the relevant offer as well as the risks relating to the company/business.

A number of factors play an important role in whether a company is successful or not and thus also whether the company's shares increase or decrease in value. **Certain factors affect all companies carrying out business**, for example macroeconomic fluctuations, changes in tax legislation, industrial relations and/or securities trading in general. **Some factors only affect a company** specifically on account of its specific circumstances, the industry in which it operates or the like.

Over the years, a tendency has evolved to describe all imaginable (and often also unimaginable) risks in the prospectus, not least in the form of general factors that pose a risk to all companies carrying out business. It is worth a thought whether this tendency has benefited the quality of the prospectuses. The specific and decisive risk factors tend to easily disappear in the swarm of general risks. By way of example, should it be stated that there is a risk that a company's management may feel pressured into changing their behaviour and becoming dishonest?

What would investors say to a risk factor of the following content – which is mere invention from the authors:

"The company depends on management and executive employees not committing fraud or withholding material information. When the Company's shares have been admitted to trading, management and executive employees will be exposed to significant pressure from both shareholders and the media which will have much more focus on a listed company than an unlisted company. If it becomes difficult for the Company to meet its own expectations and the expectations of the surrounding world, the pressure may result in hasty decisions or actual fraud. Although the Company finds this risk to be quite low, such events will adversely affect the Company's financial performance, which could have a material adverse effect on the Company's business, results of operations and financial position."

It only takes one look at this wording to know that the descriptions of risk factors typically seen today have become a lot longer and are a manifestation of internationalisation and fear of incurring liability, which may be a justified fear – even in Denmark. **And that makes the prospectus look like a disclaimer**.

With the coming amendments to the Prospectus Regulation, the very requirements to the risk section of prospectuses will be tightened in order to get rid of this tendency and in order to give concrete expression to the risks described in the prospectus. According to the preamble to the new prospectus Regulation:

"The primary purpose of including risk factors in a prospectus is to ensure that investors make an informed assessment of such risks and thus take investment decisions in full knowledge of the facts. Risk factors should therefore be limited to those risks which are material and specific to the issuer and its securities and which are corroborated by the content of the prospectus. A prospectus should not contain risk factors which are generic and only serve as disclaimers, as those could obscure more specific risk factors that investors should be aware of, thereby preventing the prospectus from presenting information in an easily analysable, concise and comprehensible form. Among others, environmental, social and governance circumstances can also constitute specific and material risks for the issuer and its securities and, in that case, should be disclosed. To help investors identify the most material risks, the issuer should adequately describe and present each risk factor in the prospectus. A limited number of risk factors selected by the issuer should be included in the summary."

Example of risk factors

Title	Description	Impact (1-3)	Probability (1-3)	Ranking (Impact * probability (1-10))	Preventive actions	Mitigation plan
Downturn in industry	Turnover and prices go down	3	1	5	• Alert on any sign of recession • Cost reductions • Realism	• Change focus from growth to cash flow • Similar tools as during financial crisis
Political incidents						
Innovation						
SAP implementation						
Key employee dissatisfaction						
Major customers leave						

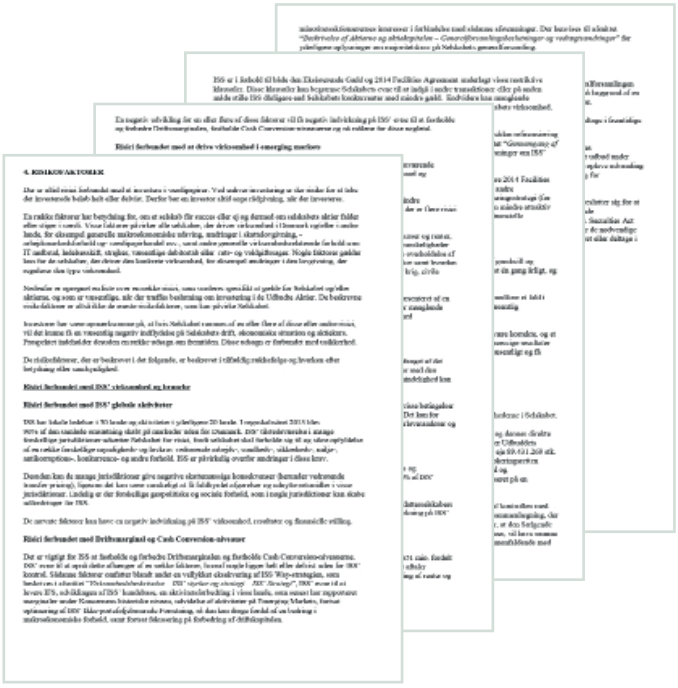
**Not from prospectus*

In our assessment, the Danish FSA is already at this point taking a more critical approach to the number and contents of risk factors in prospectuses in light of the clear message sent by the EU in the coming Prospectus Regulation.

On next page is an exsample of how briefly and more precisely the risk factors can be described, as opposed to what is seen today.

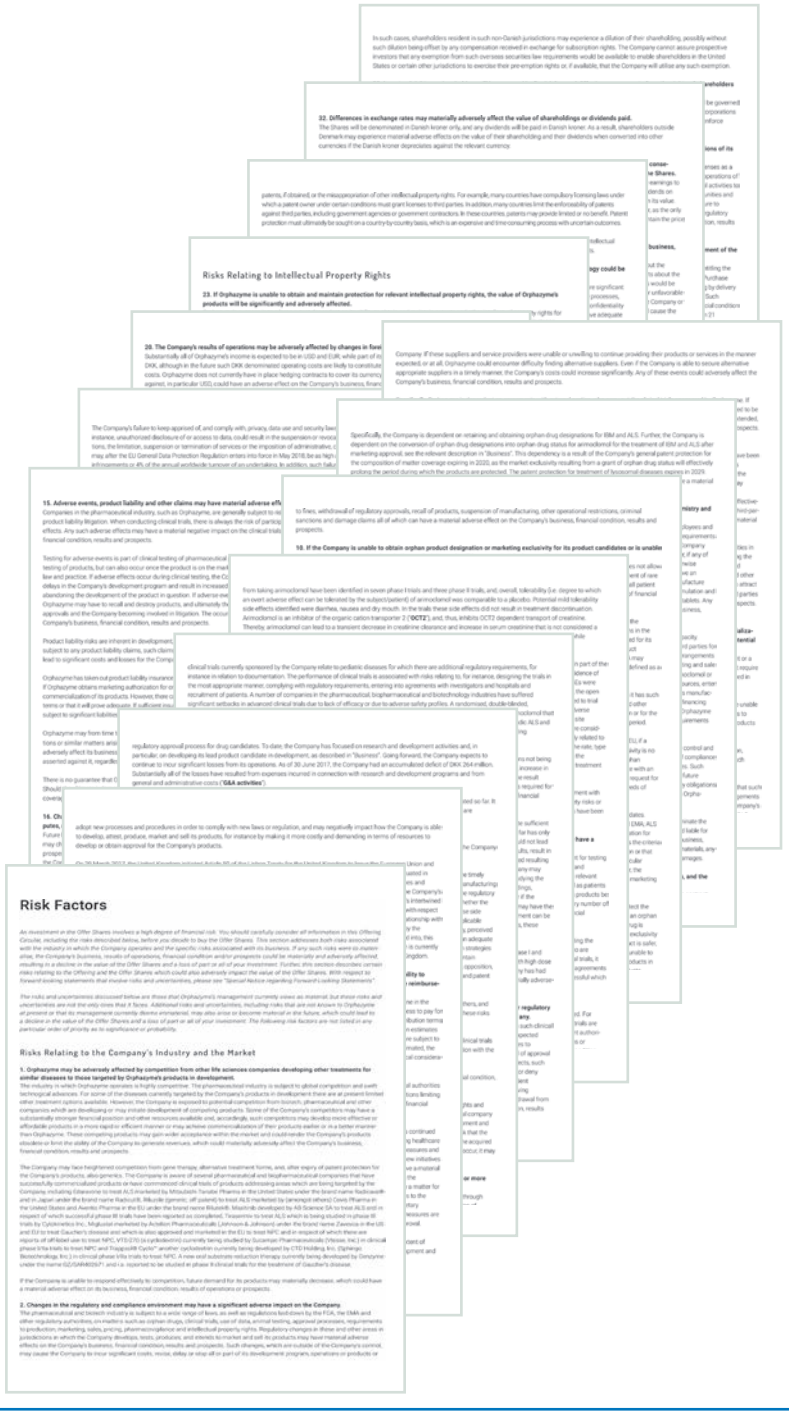
Risikofaktorer

This example shows how a section on risk factors could be drafted with only those matters that are relevant to the Prospectus Regulation: 4 pages as opposed to 15 pages.



Risikofaktorer

This example shows the section on risk factors in a prospectus published in 2017.



Risks Relating to Intellectual Property Rights

23. If Orphazyme is unable to obtain and maintain protection for relevant intellectual property rights, the value of Orphazyme's products will be significantly and adversely affected.

32. Differences in exchange rates may materially adversely affect the value of shareholdings or dividends paid.

15. Adverse events, product liability and other claims may have material adverse eff

16. If the Company is unable to obtain orphan product designation or marketing exclusivity for its product candidates or is unable

Risk Factors

Risks Relating to the Company's Industry and the Market

1. Orphazyme may be adversely affected by competition from other life sciences companies developing other treatments for similar diseases to those targeted by Orphazyme's products in development.

2. Changes in the regulatory and compliance environment may have a significant adverse impact on the Company.

15. VERIFICATION

- a necessary evil or an overlooked advantage?

bankTrelleborg

In March 2007, it was resolved to convert sparTrelleborg into bankTrelleborg. A part of sparTrelleborg's capital consisted of guarantee capital. The guarantors were offered to convert the guarantee capital into shares in bankTrelleborg at a price of DKK 250 for each nominal amount of DKK 100. For purposes of the conversion, a prospectus had been prepared which contained a detailed description of bankTrelleborg. A number of the guarantors accepted the offer. The bank ran into financial difficulties and less than one year later, it was taken over by Sydbank, which effected a compulsory redemption of the remaining shareholders at a price of DKK 93.27 for each nominal amount of DKK 100. Thus, the guarantors had lost almost 62% of their investment.

Subsequently, a number of the guarantors claimed compensation for prospectus defects. The most important defect was a statement that no security had been provided for the bank's debts, although two deposit accounts of DKK 300 million with Spar Nord had been pledged in favour of Spar Nord. This defect resulted in misrepresentation of two other aspects of the prospectus (no disclosure of demand for repayment of debt and disclosure of "considerable cash resources").

The judgment ordered Sydbank (which had now merged with bankTrelleborg) to pay compensation for the difference between the subscription price and the compulsory redemption price. The Supreme Court took into account, among other things, that the bank had decided against having the prospectus verified, although the bank had never prepared a prospectus before.

The judgment in bankTrelleborg is remarkable for a number of reasons and has made its mark on the prospectus process since it was delivered.

However, the Supreme Court will probably provide a small loophole for companies which have experience in the preparation of prospectuses. Depending on the circumstances, it may therefore be okay to prepare a

prospectus without external verification. For example, it is possible to imagine that a company which has just carried out one capital increase based on a verified prospectus may justify carrying out a subsequent capital increase without another external verification process. However, this would require that the company is in complete control of the events of the intervening period and is able to provide the necessary documentation. If the need for the subsequent capital increase is caused by adverse economic developments for the company based on factors which are not disclosed in the existing prospectus, this will increase the requirements for the company to have full insight into the events of the intervening period in order to omit verification.

Although prospectus regulation does not impose any requirements of verification on the issuer company, it may seem risky in light of bankTrelleborg to carry out a capital increase without verification. However, there are also many ways in which to make verification a simple and manageable process. See especially the section headed "Having everything neat and tidy".

In practice, it will usually not be the company itself which decides to have the prospectus verified as the financial adviser will often make their services conditional on external verification in order to reduce liability for everyone involved. However, there is a difference between whether a company is looking to have its shares listed for trading in a small market place such as First North or on the main market – the depth or intensity of verification will always be greater for major companies. **However, in all situations it is essential that the prospectus is true in every respect**.

What does verification mean

Verification is a test of the accuracy of the key information disclosed in a prospectus, random samples or testing of other information as well as an examination of whether information is missing from the prospectus.

The verification process

In order to strengthen the value of the verification process, it will typically be performed by a lawyer who is not the issuer's usual lawyer and who is appointed by the involved banks. However, the verification process has changed over time, see also the section headed "Optimisation" below. An independent lawyer will look at the company and the prospectus with fresh eyes as it may be difficult for the company's usual lawyer to ask critical and insisting questions to management and about a prospectus which the lawyer him-/herself will have some responsibility for. In addition, the company's usual lawyer will often have to answer, verify or document some of the questions that are raised in the course of the verification process. In this context, a dual

role would obviously call the quality of the answers into doubt.
The verification lawyer will prepare a verification document based on the draft prospectus, often in the form of a diagram, which contains a number of questions to the statements of the prospectus. The questions will concern all material aspects of the prospectus, whether objective, subjective or discretionary in nature. Also, questions will be asked to other statements in the prospectus chosen by random selection. Statements about the company's prospects will invariably attract a number of questions as they are obviously difficult to document.

The questions are intended to check if the statements in the prospectus are correct and capable of documentation, but questions will also be asked to find out if material information is missing. The latter type of questions requires some measure of creativity and experience on the part of the verification lawyer. Questions will naturally be asked about existing and notified disputes and claims, including administrative requirements and orders.

But it will often also be relevant to map the competitive landscape of the company and its products or services. Are major (foreign) competitors in the process of entering the company's market, are the company's products and services exposed to competition from a new generation of products and services, is the company dependent on specific suppliers and/or distributors, is the company facing competition or data protection issues, etc.

When the first draft verification document is available, it will be discussed with the company's management, lawyer, auditor, the issuer bank and other

advisers for the purpose of assessing if the questions are relevant and adequate. Furthermore, the parties will discuss who would be best suited to answer the individual questions and the specific documentation to be provided.

The answers to the questions may result in new questions, and questions may also give rise to a need to adjust the draft prospectus.

The process of preparing the verification document, answering its questions and providing documentation ends with a verification meeting with the participation of the board of directors, the executive board, the auditor, any key persons having answered questions, the financial adviser, the company's usual lawyer and the verification lawyer. It will often not be possible for the entire group of persons to meet, but it is important that the executive board and the board of directors are able to participate because, as the persons having prospectus liability, they should – in their own interest – hear the questions and answers in order to assess their quality. The meeting should be held at the same time as or immediately before the decision to go ahead with an IPO is made.

At the meeting, the entire verification document will be discussed and all questions and answers considered. Normally, some adjustments will be made in the document, and it will then be signed by each of the persons having answered a question and the company's usual lawyer and the verification lawyer will issue a report on the document and the process.

The final document will be submitted to each person who participated in or was invited to the meeting.

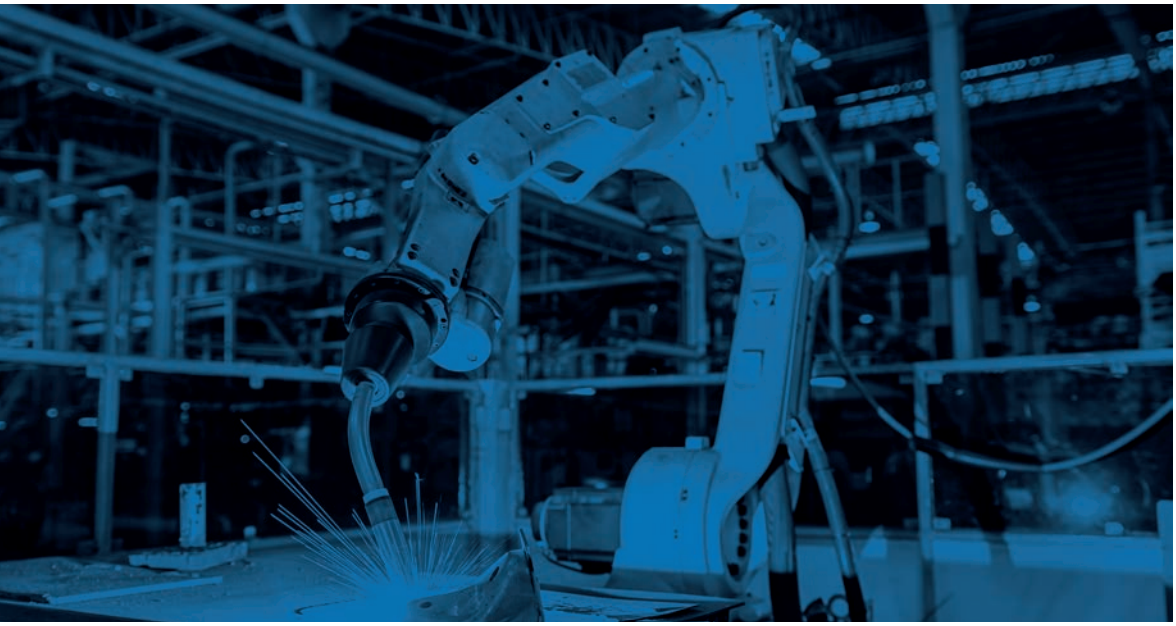
If the final decision to go ahead with the IPO is not made until after the verification meeting, there will be a need for the persons having answered the verification questions to confirm the answers ("bring-down") at the time when the IPO/public offering is initiated, which typically takes place at a telephone conference with the participation of the same persons as those who participated in the original meeting.

> The verification document is not a public document. In the ideal world it will never be used again.

Optimisation

For major IPOs, it is common practice for the verification lawyer (and his or her assistants) – if so requested or required by the financial adviser – to be involved in more or less the entire prospectus process. This includes numerous meetings where new contributions to the prospectus and new drafts are presented and discussed. The upside is that, by participating in meetings with the issuer's management and the other advisers, the verification lawyer will obtain a deeper insight into the company and the challenges and risks it faces. The downside is that the process becomes complicated, time-consuming and costly as two adviser teams – the company's and the bank's – are working in parallel.

It is possible to optimise the verification process, particularly if the company already has processes and procedures in place to provide controls of and insight into all transactions, see the section headed "Having everything neat and tidy". **Before the verification process, a company must have completed its own due diligence investigation**. This may be done by primarily using the company's own resources, which may reduce costs. Following the due diligence investigation, the relevant material and information will be readily available, correct and nothing relevant omitted. This may be a reason not to initiate the verification process until at a later stage of the prospectus phase when it may be completed in a short space of time and with limited draw on external resources. The company should consider whether to organise and complete the described optimisation



of the verification process so as to avoid duplication of work. Thereby, the verification process will be based on the draft prospectus and the material, work and documentation which have been carefully and deliberately procured in connection with the company's and its advisers' due diligence investigations.

Post-IPO process

The verification document is not a public document. In the ideal world it will never be used again. If the issue of prospectus liability for the company, management or advisers arises after the IPO, however, the verification document may be expected to be of material importance. Regardless of whether or not the prospectus defects forming the basis of a claim in this regard were mentioned in the verification document, weight will be given to the verification process in the assessment of whether liability has been incurred. The verification process cannot provide complete assurance that there are no errors or omissions in the prospectus. In bankTrelleborg, the Supreme Court gave weight to the fact that the pledges of funds in favour of Spar Nord "could ... have been discovered by a simple and quick investigation". On the other hand, this signifies an acknowledgement that not all errors and omissions will necessarily be discovered by a verification process.

It should be kept in mind already when the first draft prospectus is prepared that the statements will be tested. If this is kept in mind, the verification process will be less time-consuming and costly.

The verification process may be performed using the following:

- Get every aspect of the company under control and make sure that you have the necessary documentation before beginning the process of preparing the prospectus
- Make your own due diligence investigation
- Have a say on which verification lawyers are used
- Define the scope of the verification process from the outset to avoid duplication of work
- Consider the verification process as a means of ensuring that no errors are made
- Be tolerant of strange questions – not everyone knows your industry

16. VALUATION

No matter how interesting a company is, its true value depends on its ability to create value.

It is important that the company and its owners have advisers who are not afraid of being honest about the valuation and especially about what it takes to bring the company's value up where it truly belongs (in the opinion of the owners as well as others). Is it increased efficiency, higher growth, better cash flow or is it the discontinuation of loss-making activities that makes the difference? No matter what, it will take an open and at times aggressive mindset with the owners, the management and the board of directors to get it done professionally. In other situations it is more a question of how it can be verified that an outstanding business development can continue after an IPO. In this connection, the description of, among other things, market trends is very crucial and with true start-ups the valuation is very difficult.

All investment bankers and analysts use more or less the same valuation methods in which financial ratios play an absolutely key role. Whether the share is ultimately recommended or not depends on various other factors: The industry, market, previous results, cash flow, future prospects, risks, management, etc.

The development of free cash flow together with performance, management and future growth potential are key parameters in the valuation.

Most often, there is a peer group of companies somewhere in the world with a known valuation which can function as a guide for how the company in question will be valued.

“

It is a tricky balancing act: On one hand, to optimise the price already in the share offer in connection with the IPO and, on the other hand, to ensure a good future for the share and thus for the company going forward.

”

The share

There is a lot of focus on whether the share will be sufficiently negotiable – or liquid – or whether it is illiquid and thus difficult to get into and particularly out of without too steep upward or downward price fluctuations. The decisive factor here must be that the share is sold for what it is, for example a long-term investment which will not realise its potential until later and thus by definition starts out by being relatively illiquid. The most recent debate about pension companies' investment in unlisted Nykredit shares is a good example of this.

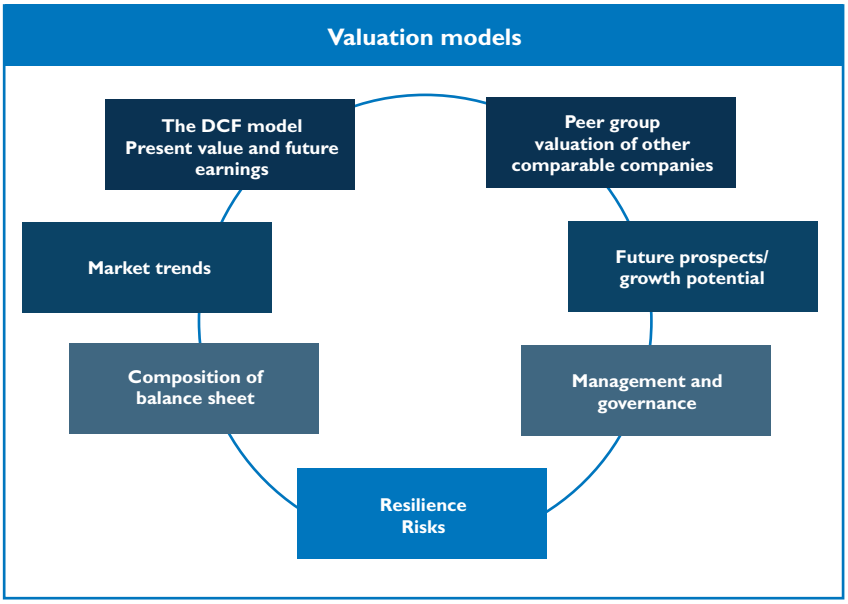
A share can be offered in various ways in connection with an IPO: The share may be seen as a growth share with value creation lying in an expected future price development which may be high – even very high. In this case, ordinary dividend distributions are of less interest. The share may be a dividend share where the dividends together with a moderate increase in price will result in considerable value for the shareholders. The share may also be introduced as a growth share, which will not generate very explosive price increases until in x number of years, either through the company's own development or as a result of a takeover bid for the whole company. Shares of this nature will often be illiquid to some extent.

Becoming a success - being able to rebound

It is a tricky balancing act: On one hand, to optimise the price already in the share offer in connection with the IPO and, on the other hand, to ensure a good future for the share and thus for the company going forward. Greed and excitement must therefore be curbed in connection with an IPO, which is a deep-rooted trend in the Swedish market which also seems to be on the way to Denmark.

An IPO may also be surrounded by hype, like the Pandora IPO years ago. A subsequent downward adjustment of financial expectations was very brutal. It took hard work to rebound, which Pandora luckily at the time did quite fast.

Creating a stable positive price development rather than a sharp drop immediately after the IPO is decisive to credibility and success in the long term as a listed company. If the opposite were to happen, with negative development and declining share prices after the IPO, it is hard and may take years before the company can revisit the stock market if it is in need of new capital.



The verification process may be based on the following:

- Try early in the process to get more than one opinion on the valuation
- Follow up on a regular basis to allow the process to be stopped if the price is not satisfactory
- Listen to experienced advisers
- Trim the company with an anchor investor rather than a hasty IPO
- Look at the valuation of competitors, also elsewhere in the world
- Be to the point in the communication about the company's future prospects
- Don't be greedy

17. LIABILITY – PROSPECTUS REPORTS AND DECLARATIONS

All parties to the process – management, advisers and banks – have done their job in the best way possible and yet they are all concerned about accepting responsibility for the final product – why is that?

Whether you are a company or a private individual, taking money from other parties is – and should be – associated with significant responsibility. The same is true when a company undergoes an IPO and receives the proceeds or when a former owner sells some of his shares in an IPO. There is no doubt that the company is responsible and liable towards the new shareholders for ensuring that "to the absolute best of their knowledge" there are no misrepresentations or material omissions in the prospectus and in the IPO as such. If it subsequently turns out that the prospectus was indeed materially defective and this results in a loss on the part of the investors, the company – and sometimes also management – will be liable for such loss. As discussed in the section headed "Verification", bankTrelleborg is a good example. Sydbank, which had merged with the bank, was liable for the consequences of the defective prospectus and therefore had to pay compensation to the bankTrelleborg shareholders. It seems quite natural that the company, having enjoyed the benefits of the capital increase, was also liable for the loss suffered by the investors.

The same situation may arise where only the company's shareholders sell shares or at least by far the majority of the shares offered in the IPO. If the prospectus prepared by the company is defective and results in a loss for the investors, but the company has gained nothing from the process other than a listing, will the company still be subject to prospectus liability or will the selling shareholders? The answer is yes, the company will, the fault being on the company. In a situation like this, there would have to be an **agreement** between the company and the selling shareholders in order for the shareholders to be liable to the company.

Management may also be held personally liable for material defects in a prospectus resulting in losses on the part of the investors. A typical example

is the situation where the company goes bankrupt and therefore cannot pay compensation to the subscribing shareholders. Management may also incur separate and independent liability if they deceive the company and the investors by wilful misconduct or gross negligence. The OW Bunker IPO, which has been extensively covered in the media, is unfortunately a case in point. The company went bankrupt only six months after the IPO in 2014 and angry investors have claimed compensation from management, the former owner and the advisers. The outcome of those disputes will only be known after years of legal battle.

Reports and declarations

The section headed "Preparation of prospectus" mentions the reports and declarations to be issued by the board of directors, the executive board and the auditors in the process of having a prospectus approved by the Danish FSA. Those reports and declarations are all known to the public as they form part of the prospectus.

Example from Orphazyme of 6 November 2017:

Responsibility Statement

The Company's Responsibility
The Company is responsible for this Offering Circular in accordance with Danish law.

The Company's Statement
We hereby declare that we, as the persons responsible for this Offering Circular on behalf of the Company, have taken all reasonable care to ensure that, to the best of our knowledge and belief, the information contained in this Offering Circular is in accordance with the facts and does not omit anything likely to affect the import of its contents.

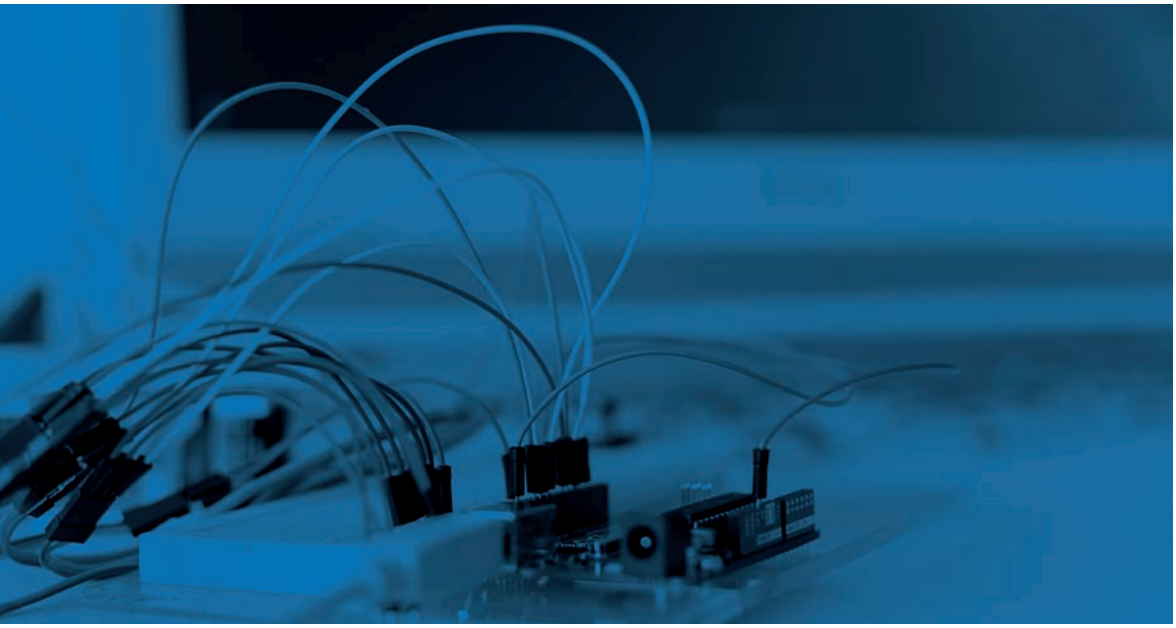
But declarations are also given between the company and its board of directors and executive board on the one hand and its advisers and corporate finance houses on the other hand. Those declarations are mostly a question of (i) shielding all advisers from liability and (ii) making the company's management declare (once again) that the outcome of the verification process, which is now stated in the prospectus and in the audited annual or interim reports, is correct.

Obviously, the advisers and the corporate finance houses want the company to exempt them from liability as the company or its shareholders are those who receive all of the benefits from an IPO and capital increase. Conversely, it would go directly against Danish mentality if an adviser were able to disclaim liability for wilful misconduct or gross negligence which results in claims against what is now a listed company. This situation must be covered by the agreements which are made between the company and its advisers, see section 11.

Therefore, it will often result in much discussion if the company and its management are required to issue objective statements to a stricter standard than "to the best of their knowledge", while the advisers and banks are disclaiming liability not just for ordinary negligence, but for gross negligence as well. The company's management will often refuse to sign such objective declarations and try at the same time to have the advisers accept liability for defective advice. **The general recommendation to companies and managements is not to issue any objective declarations** but to stick to qualifying them by including the phrase "to the absolute best of their knowledge". The contents of the advisers' declarations, reports or disclaimers may be the subject of lengthy discussion, particularly with reference to "industry standards and practice". The best procedure is to have those matters clarified well before the IPO process begins, and preferably when entering into the first agreements with the respective advisers and corporate finance houses to engage their services. At this stage of the process, the company has some leverage in the negotiations, as opposed to 24 hours before the IPO is scheduled to take place. As a company, you must expect that advisers, too, will want to issue a report that "to the best of their knowledge", all relevant information is disclosed in the prospectus.

Liability

There is a lot of talk about liability for those involved, including personal liability for the board of directors and the executive board of the companies



being listed. Liability often has many facets, but in this context especially includes financial liability and reputational liability. For many, the latter may be far more problematic and costly at the end of the day than an ordinary financial claim, which in Denmark most often ends up coming to nothing anyway. As a result of reputational liability, it is natural for everyone to try to protect themselves and pass the buck if push comes to shove.
Unless otherwise agreed, a Danish prospectus will be subject to Danish law and thereby the common sense exhibited by the Danish courts in such cases.

From the prospectus of 31 May 2017 for GreenMobility A/S:

This Prospectus is prepared in accordance with Danish law, and is not an offer to sell and is not soliciting an offer to subscribe for or buy the Offer Shares or any part thereof in any jurisdiction outside Denmark to any person to whom such offer is not permitted in the relevant jurisdiction.

But we all want to be able to travel between jurisdictions as we please, without being met by a writ of summons in Chicago Airport, for example, from an angry US investor who uses your presence in the US to issue proceedings before a US court either against the company or against management. When something like that can happen, it is clear that concerns about personal liability in particular have increased with globalisation and the mark that especially US law has increasingly made on Danish law.

There is not and has not been a lot of cases on prospectus liability in recent years – and certainly not directed at individual persons. Apart from the cases following in the wake of OW Bunker's bankruptcy where it has not yet been clarified how many of those cases will actually be adjudicated, only few cases are known. One of those is the already mentioned bankTrelleborg, which was directed against the company. Some may also remember the collapse of insurance group Hafnia in 1992 and the subsequent prospectus liability case against a new management and a manager bank.

Immediately before its collapse, Hafnia had completed a major capital increase headed by a newly elected board of directors and executive board. After the collapse, private investors issued proceedings against Hafnia, the chairman of the board and the CEO as well as the manager bank. The Supreme Court ended up ruling in favour of all defendants (as the lower court did for management) 10 years after the bankruptcy. The prospectus was criticised, but everybody knew that the shares was a high-risk investment because of the difficulties the company was experiencing.

Insurance

The section headed "Costs and insurance" discusses the widely used prospectus liability insurance, which is available to management if they want to protect themselves from such liability.

Drafting the prospectus reports and declarations in terms of liability the following should be considered:

- Make sure that the prospectus is shipshape and does not go beyond what objective knowledge and gut feeling dictate
- Update the prospectus continuously to ensure that its contents are still true
- Issue a declaration or report on what you know, and not on what you think you know
- Take out insurance – legal costs alone may be considerable and devastating

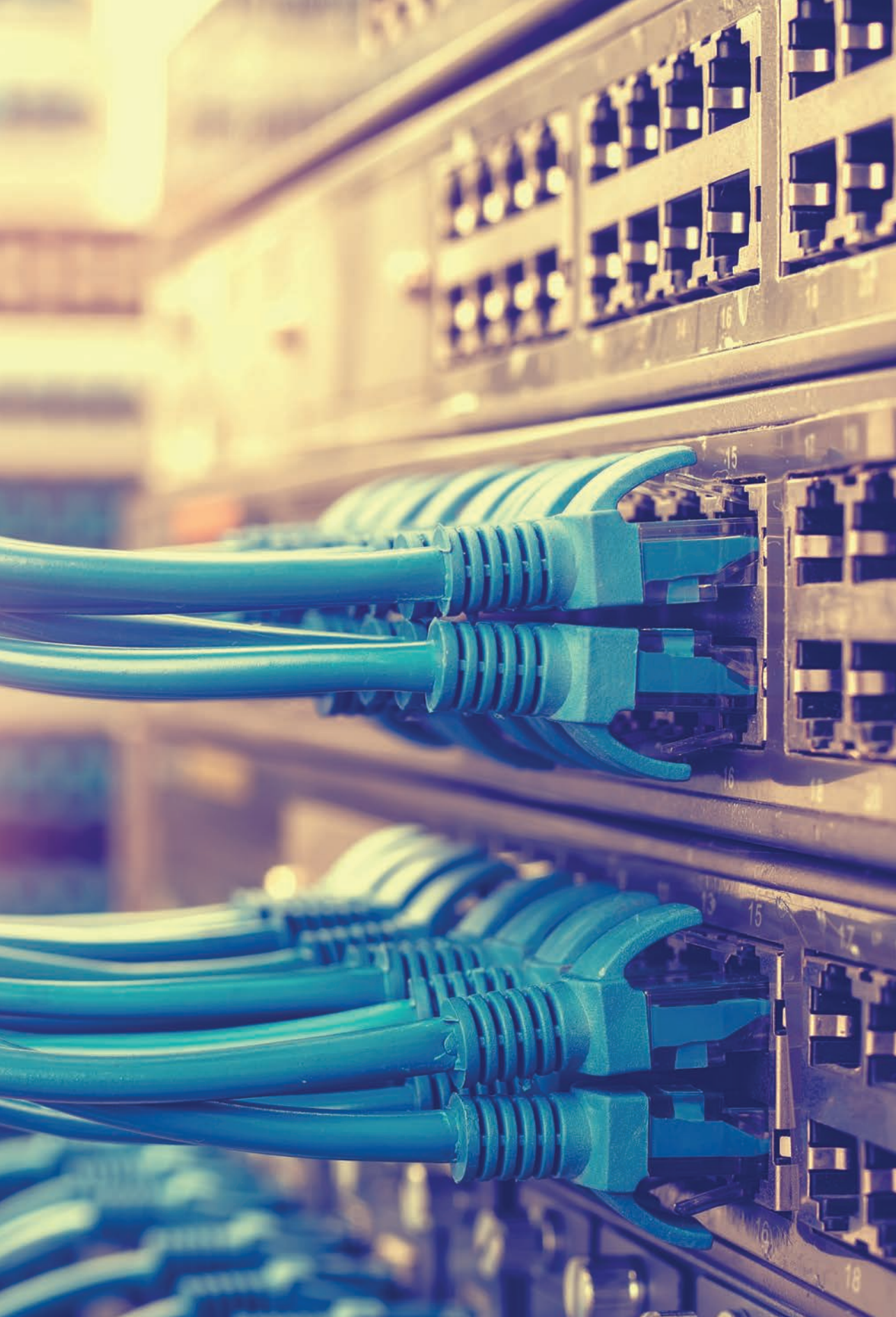
List of declarations and reports:

Registration document

- Persons responsible for the offer
- Profit forecasts – management and auditor
- Management and key employees
  - No conflicts of interests
  - Relationship (only an explanation required)
  - Violations of law etc. (only a statement required
  - Agreements etc. election to the board of directors (only an explanation required)
  - Trading restrictions (only an explanation required)
- Management's working practices
  - Contractual terms on executive remuneration etc., or a declaration that there are no such terms
  - A corporate governance declaration or a comply or explain statement
- Historical financial information
- Disputes before the courts or arbitration tribunals
- Material changes in financial or trading position
- Statements by experts, third party information and declarations of any interest
- Documentation material for inspection

Securities note

- Persons responsible for the offer
- Working capital
- Capitalisation and indebtedness



18. COSTS AND INSURANCE

Apart from the workload involved in a NASDAQ listing, the costs involved in the process are probably generally what is mentioned as one of the biggest deterrents, which is often unjustified.

Costs should not be a deterrent. there is a connection between the size, complexity and value of a company and the costs connected to an IPO. The IPO process requires a lot of work, regardless of the size of the share offering. Therefore, there is a difference between whether a company has set its sights on First North or NASDAQ's main market. Thus, the costs of an IPO of a small company at First North, exclusive of the financial adviser's fees, may be as low as DKK 1 million (incl. keeping everything "neat and tidy"), while the costs of an IPO of major complex companies on the main market may be in an entirely different league. Global IPOs involve huge costs and should therefore only be opted for if all parties are certain that this is what is needed.

Costs generally fall into two categories: those that are associated with **the IPO** as such, which is a large one-off sum, and **annual current costs** which the company must pay to NASDAQ and various others for its listing.

Costs are probably one of the factors that the general public is most interested in hearing about and therefore receive much coverage in relation to the commercial quantum leap that is an IPO.

Listing

The costs involved in a listing are varied.

On the adviser side, the fee to the company's financial adviser(s) (corporate finance adviser(s)) is often the biggest outlay. The fee of those advisers will often be a combination of a fixed fee and a success fee, e.g. a percentage of the share offering. In addition, there is the fee to the legal advisers – the company's usual lawyer and the verification lawyer and other advisers of

the bank(s). The company's auditors will also be paid a separate fee for the work they are asked to perform in each case, e.g. for reports and declarations about historical financial information and the assumptions for future budgetary objectives in the prospectus. In addition to their fee for services rendered, the advisers will often also incur expenses that must be reimbursed, but that will take place in accordance with usual practice.

The account-holding institutions which handle orders for the offer shares on behalf of the investors currently charge a commission of 0.25%. In practice, the company's account-holding institution will deduct the fee from the total subscription amount before paying the latter to the company in connection with the implementation of the capital increase, and the amount will then be paid out to the banks which handled the respective orders.

The Danish FSA charges a fee in connection with prospectus approval. The size of this fee is set by an executive order, and in 2017 it amounted to approximately DKK 56,000 (the amount is adjusted annually to reflect the amount of funding allocated to the Danish FSA on the Budget).

VP Securities A/S charges a fee via the company's account-holding institution for the technical side of the offering.

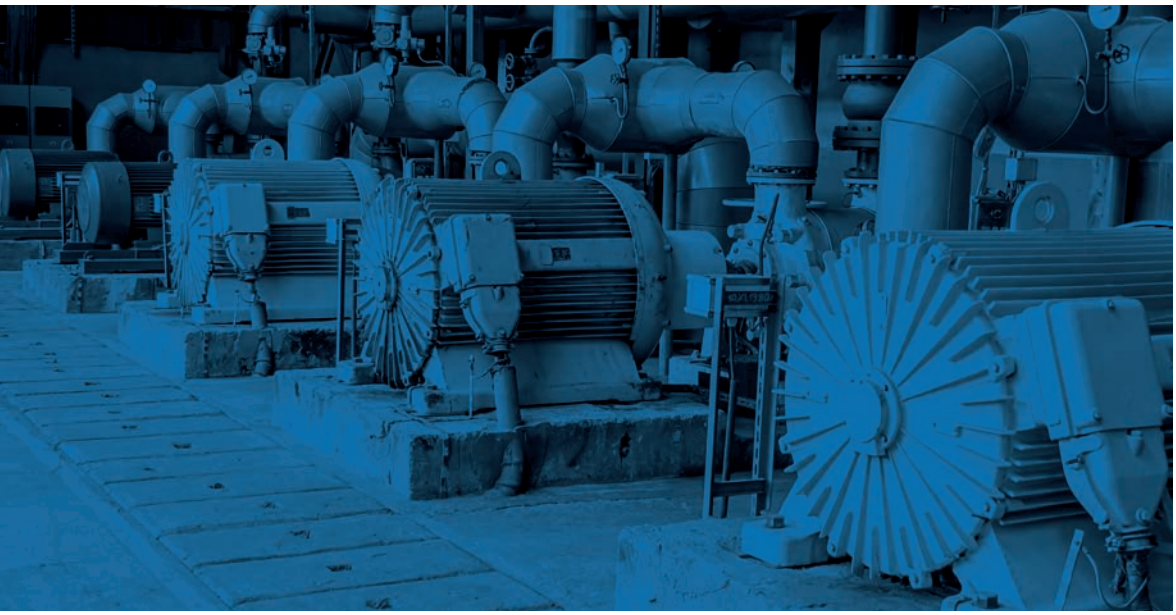
NASDAQ charges a fixed fee for admitting the shares to listing and trading. The admission fee is based on the company's market value after the first trading day at NASDAQ. Using a MidCap company with a market value of just below DKK 1 billion as an example, the admission fee would be approximately DKK 450,000.

If the company opts for NASDAQ First North instead, the costs will be considerably lower. If, by way of example, the market value of the company is in the vicinity of DKK 300 million, the admission fee will be around DKK 40,000.

Various costs which are often forgotten, but sometimes add up to a substantial amount are costs such as postage, printing of prospectuses, roadshows, etc.

Specifically on insurance

The above costs are all more or less "compulsory". Costs which are more "optional" in nature include **prospectus liability insurance** for management, which has become more and more widespread as prospectuses have become more and more in the nature of disclaimers for all parties involved rather than information about the companies.



As described in the section headed "Liability –reports and declarations", the issuer and the persons signing the prospectus are subject to liability. If the prospectus does not provide accurate and adequate information or if the information provided is defective, the company and/or the persons concerned may incur liability, including personal liability. The OW Bunker IPO is an unfortunate case in point.

One way of obtaining protection from this liability – both costs and liability in damages in connection with a claim for compensation – is to take out insurance, either as a separate prospectus liability insurance policy or as an expansion of existing management liability cover. It is difficult to say anything generally about the price, which will obviously depend on many criteria, including the term of the policy, the sum insured, terms and cover and not least whether the policy is a new one or an expansion of existing cover.

Trend or no trend, it has turned out that insurances are not as costly as most people think. Compared with the comfort that such insurance provides to the signatories, this is one of the factors that, at least mentally, give most value for money.

> Prospectus liability insurance is not a cushion or an invitation to carelessness.

Current costs

A company will also see a number of new current costs as a result of the IPO.

There are obviously the costs that come with being a listed company, see the section headed "Life at NASDAQ". There are the costs which the individual company itself decides to allocate to marketing, roadshows, etc. and then there are the fixed costs. There is an annual cost which the first year is also based on the company's market value after the first trading day.

At present, the fixed annual costs amount to DKK 80,000 plus DKK 52 per million of market value in relation to the number of months in which the company has been listed the first years. For a company with a market value of around DKK 1 billion which is listed on 1 June, this would mean a total cost of approximately DKK 200,000 the first year. The amount of annual costs will then be based on the company's market value on 30 December each year. Again, the annual current costs involved in being listed on First North are considerably lower, in the vicinity of DKK 65,000.

Whether the costs provide value is another question, and one that is for the individual companies to decide. Raising capital always comes with a price tag, regardless of the source. Used properly, NASDAQ is an excellent platform to propel a company into another league and thereby obtain value for money in all respects.

19. TAX SECTION IN THE PROSPECTUS

It has become customary for prospectuses to include a quite extensive description of how investors will be taxed on their investments. It is not unusual for prospectuses to include five or six closely-typed pages about tax.

The tax section gets this long because of the detailed description of the tax consequences in a sale or dividend distribution situation, and because these matters depend on whether the investor is a natural or legal person, whether the investor is resident in Denmark or not, whether the investor owns more or less than 10% of the company, whether the investor incurs a loss on his investment, whether the investor purchases subscription rights and whether the funds invested are pension funds, etc. In addition, prospectuses often include a description of transitional rules, double taxation agreements and a separate description of the tax rules that apply to investors in the US market, which is due to the US prospectus rules. Thus, the tax section often becomes so long that there is a risk of the reader getting lost in the information fog and not particularly wiser.

Despite the volume and level of detail in the tax section, it is nearly always opened by a disclaimer specifying the information not being exhaustive, that it is provided for general information purposes only and that **investors are advised to consult their own tax advisers** concerning the overall tax consequences of subscribing for, owning and selling the offer shares. In other words, investors cannot be absolutely sure that the rules described in the section apply in their own particular situation. And such disclaimers weigh in favour of limiting the information to what is required under the prospectus rules and in favour of the tax situation of the individual investor being clarified by the investor consulting his or her own advisers.

There are no requirements in the Danish Executive Order on Prospectus Requirements or the EU Prospectus Regulation for a prospectus to provide information about how investors will be taxed on their investment. The EU Prospectus Regulation confines itself to a minimum disclosure requirement about the prospectus having to provide information about any withholding tax.

In respect of the country of registered office of the issuer and the country(ies) where the offer being made or admission to trading is being sought:

- Information on taxes on the income from the securities withheld at source
- Indication as to whether the issuer assumes responsibility for the withholding of taxes at the source

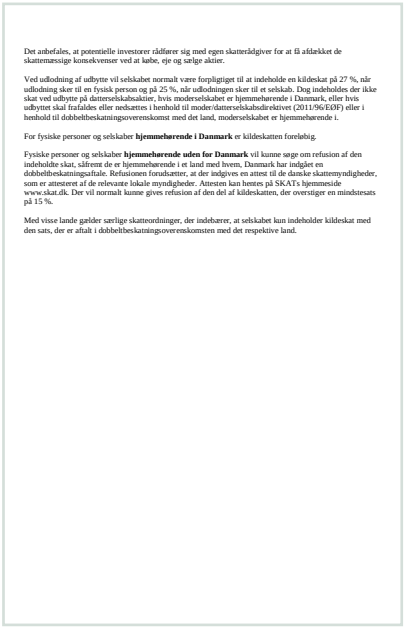
As only dividend distributions are subject to withholding tax under Danish law, the information to be included in a prospectus may thus, as a general rule, be limited to just that. A detailed description of the tax rules applying to a sale of the shares is thus nothing more than service information making the prospectus less clear and readable.

In the autumn of 2017, a majority of the Danish Parliament agreed on a number of growth initiatives, two of which in particular may affect the stock market in Denmark:

- The share savings account. Based on the Swedish model, a share savings account will be introduced where people can deposit their savings in listed shares and share-based investment units. Investment returns are taxed at a rate of 17% according to the market-value principle. Increases in value are taxable, whereas losses are carried forward and set off against future returns. The scheme applies from 2019 and the deposit maximum will be DKK 50,000. This amount will increase to DKK 200,000 in 2022.
- Relaxation of the rules governing the investment of privately administered pension plans. The rules will be relaxed to allow private individuals to invest a higher share of their pension plan in unlisted shares. This definition also extends to shares listed on First North. For pension savings below DKK 2 million, up to 25% may be invested in shares listed on First North. For any pension savings in excess of DKK 2 million, 100% may be invested in shares listed on First North. Investments in individual companies are subject to a minimum of DKK 50,000 in each case.

Tax

Example of a tax section fulfilling the requirements under the Prospectus Regulation:



Det anbefales, at potentielle investorer rådfører sig med egen skatterådgiver for at få afdækket de skattemæssige konsekvenser ved at købe, eje og sælge aktier.

Ved udlodning af udbytte vil selskabet normalt være forpligtiget til at indeholde en kildeskat på 27 %, når udlodning sker til en fysisk person og på 25 %, når udlodningen sker til et selskab. Dog indeholdes der ikke skat ved udbytte på datterselskabsaktier, hvis moderselskabet er hjemmehørende i Danmark, eller hvis udbyttet skal fralægges eller nedsættes i henhold til moder/datterselskabsdirektivet (2011/96/EØF) eller i henhold til dobbeltbeskatningsoverenskomst med det land, moderselskabet er hjemmehørende i.

For fysiske personer og selskaber **hjemmehørende i Danmark** er kildeskatten foreløbig.

Fysiske personer og selskaber **hjemmehørende uden for Danmark** vil kunne søge om refusion af den indeholdte skat, såfremt de er hjemmehørende i et land med hvem, Danmark har indgået en dobbeltbeskatningsaftale. Refusionen forudsætter, at der indgives en attest til de danske skattemyndigheder, som er attesteret af de relevante lokale myndigheder. Attesten kan hentes på SKATs hjemmeside www.skat.dk. Der vil normalt kunne gives refusion af den del af kildeskatten, der overstiger en mindstesats på 15 %.

Med visse lande gælder særlige skatteordninger, der indebærer, at selskabet kun indeholder kildeskat med den sats, der er aftalt i dobbeltbeskatningsoverenskomsten med det respektive land.

TAX

Prospective investors are advised to consult their own tax advisers concerning the overall tax consequences of purchasing, owning and selling shares.

The company's dividend distributions to natural persons will usually be subject to a withholding tax of 27%, and to a withholding tax of 25% when distributed to legal persons. However, dividends from subsidiary shares are exempt from withholding tax if the parent company is resident in Denmark, or if the dividends are to be waived or reduced in accordance with the Parent-Subsidiary Directive (2011/96/EEC) or in accordance with a double taxation convention with the parent company's country of residence.

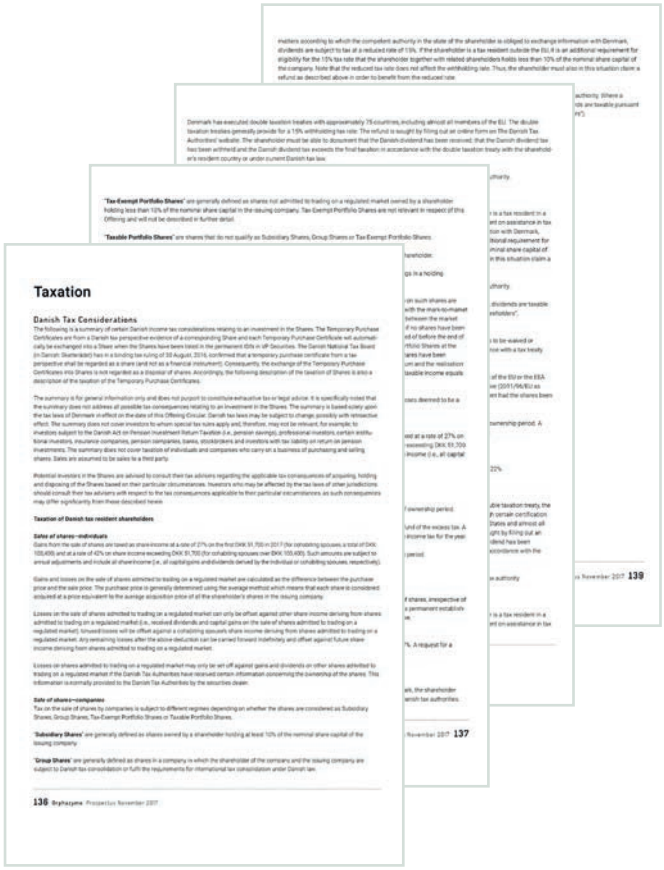
For natural and legal persons resident in Denmark, the withholding tax is provisional.

Natural and legal persons resident outside Denmark can apply for a tax refund, provided they are resident in a country with whom Denmark has entered into a double taxation convention. In order to obtain a refund, a certificate certified by the relevant local authorities must be filed with the Danish tax authorities. The certificate may be downloaded from the website of the Danish tax authorities www.skat.dk. The refund will usually cover the part of the withholding tax exceeding a minimum rate of 15%.

Special tax arrangements apply in relation to certain countries, which means that the company only withholds tax at the rate agreed in the double taxation convention with the relevant country.

Tax

A prospectus from 2017:



Taxation

Danish Tax Considerations

136 Orphazyme Prospectus November 2017

137

139

20. CORPORATE BONDS

This book is about issuing or sale of shares, i.e. investment or trade with equity. This chapter is about issuing of corporate bonds, i.e. the possibilities for companies to use the capital market to raise loan capital.

To Danish and foreign companies, the issuance of **corporate bonds** is an alternative and often attractive source of finance on the capital markets.

In recent years, an increasing number of Danish companies have financed their activities to some extent or other through the issuance of **corporate bonds** or **notes**. Among those are Lauritz.com, European Energy, Haldor Topsøe, Carlsberg, DSV, TDC, A.P. Møller-Mærsk, ISS, DSB, ARLA, Danish Crown, AMBU, LM Wind Power, DLG, EG and DONG Energy (now Ørsted). As it appears, it is a mixture of small, middle-sized og major Danish companies who have used this form of financing.

European Energy, which builds solutions to global climate change in the form of wind farms, solar farms and large energy storage solutions, has used corporate bonds as a source of finance, and in 2015 the company issued the EUR 45 million EURIBOR (3 m) + 7.50% Senior Unse-cured Callable Floating Rate Bond, which was admitted to trading on NASDAQ OMX Stock-holm and redeemed early in July 2017. In 2017, European Energy has issued a new corporate bond, the EUR 60 million EURIBOR (3 m) + 7.00% Senior Secured Callable Floating Rate Bond, which matures in May 2021 and has been admitted to trading on NASDAQ Copenhagen.

The bonds may be offered to institutional investors in a private placement or to the public, and an application may furthermore be made for the bonds to be admitted to trading on a regulated market. The most obvious market places for Danish companies are NASDAQ Copenhagen, First North Bond Market, Luxembourg as well as NASDAQ Stockholm. In practice, the issuer may choose a process in which the offer and sale to the investors takes place first whereas the admission to trading on the regulated market takes place afterwards (within an agreed period).

As with share offers, corporate bond offers are organised through the assistance of an investment bank, which in a bond offer is referred to as the manager bank. The **manager bank** advises the issuer company on how to organise the offer and on the process and dialogue with the investors as well as negotiation of the terms and conditions applying to the bonds which are to govern the relationship between the company and the investors. In Denmark, corporate bonds are not governed by Danish company law, except in the case of convertible bonds. The decision to issue corporate bonds is thus made by the issuer company's board of directors and no resolution by the general meeting is therefore required. The issuer company will enter into a subscription agreement with the manager bank, requiring the manager bank to assist in the sale of the bonds, including, if relevant, with a combination of underwriting services for the major issues.

The terms and conditions of the bonds govern the relationship between the issuer company and the bondholders. The terms and conditions will contain provisions governing matters such as repayment of principal and interest, financial covenants, which may include provisions on negative pledges and default, including, for example, cross default clauses in the event of the issuer's default on its other debt obligations, and provisions on meetings of bondholders and how major decisions must be passed.

If it is agreed that the bonds are to be listed it will usually take place within 2 – 12 months after the offering. This is feasible if the offer is not subject to a separate obligation to publish a prospectus in relation to the offer.

Corporate bond offer and admission to trading

As with shares, it is important to maintain a sharp distinction between the offer and admission to trading. As with the shares, there are certain exemptions from the prospectus requirements in connection with the offer, i.e. the actual sale of the bond, whereas the same exemptions do not exist in connection with the possible admission of the bonds to trading, i.e. listing on one of the NASDAQ markets or elsewhere.

As a general rule, a corporate bond offer will be subject to a requirement to prepare a prospectus pursuant to the rules governing public offers of securities worth more than EUR 5 million. However, there are a number of exemptions to the requirement to publish a prospectus in connection with the actual offer and, in order to escape the prospectus requirement, the corporate bond offer is usually structured so that it falls within the scope of one of these exemptions.

For corporate bond offers, more than one of the exemptions may be applicable. The exemptions from the requirement to publish a prospectus in connection with an offer are available for (i) offers addressed exclusively to qualified investors, (ii) offers addressed to fewer than 150 natural or legal persons per EU member state, other than qualified investors, (iii) offers of securities whose denomination per unit amounts to at least EUR 100,000, and (iv) offers of bonds addressed to investors who acquire bonds for a total consideration of at least EUR 100,000 per investor, for each separate offer.

The issuer will often - jointly with the manager bank - structure the offer so that the denomination of the bonds is at least EUR 100,000, which in itself exempts the bond issue from the prospectus requirement.

The bonds will not be admitted to trading on a regulated market until a prospectus has been published. There are no exceptions to this rule. Admission to trading on a regulated market like, for example, NASDAQ

Copenhagen thus requires a fully prepared prospectus for which the issuer has used the relevant annexes of the Prospectus Regulation which, depending on the form of the bond, may be less strict than for shares. Furthermore, NASDAQ Copenhagen will require, among other things, that the company fulfils the admission requirements of NASDAQ's "Rules for issuers of bonds", and similar rules apply for the other NASDAQ exchanges in the Nordics.

Management must also understand the requirements and expectations to the company, as if its shares were in effect listed.

Prospectuses for corporate bonds

If a prospectus is required for the offer or admission to trading of the corporate bonds, such prospectus must be approved by the FSA. The approvals procedure generally follows the approvals procedure for share prospectuses. The FSA has prepared two sets of guidelines dated 12 January 2017, which describe the process: **"Practical information if you are considering admission of securities to trading on a regulated market and offers to the public of securities of more than EUR 5,000,000"** and **"Practical information if you are considering an offer to the public of securities between EUR 1,000,000 and EUR 5,000,000"**.

However, the FSA will approve the prospectus for corporate bonds within seven business days (4-2-1), the so-call fast track procedure, where only up to three reviews are needed. The fast track procedure is described in the FSA memorandum **"Prospectuses for corporate bonds may be approved within 7 days"** dated 22 August 2013.

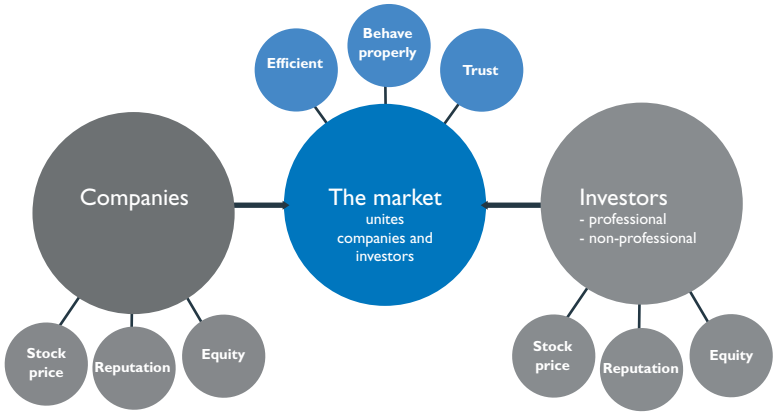
The same regulatory basis applies to the preparation of a prospectus for corporate bonds as for shares. The existing as well as the new Prospectus Regulation consists of a number of annexes or schedules specifying the contents of the prospectus for various types of securities. The individual schedules specify the disclosure requirements applying to the relevant securities. Overall, just as the share prospectus the prospectus will be made up of a section entitled registration document, a securities note and a summary, respectively.

21. LIFE AT NASDAQ

The IPO has been completed successfully – now a new world begins as a publicly owned company with responsibility for the funds invested by known and unknown sources.

For a company, having its shares listed on NASDAQ does not make much of a difference to the day-to-day operations. The focus is still the same: Value creation for all stakeholders in the best way possible. But, of course, one aspect of the new life is that the company is now public, has entered the public eye and is owned by a broad, unknown and sometimes loud group of owners whose invested funds management is responsible for managing in the best way possible. This realisation will obviously put pressure on management not to disappoint, but in most cases fast and clear communication to the public will help, whether the news are good or bad. And then it is often also **a good idea to organise a set-up to ensure that the market will always be the first to know**. In this context, too, the "tone at the top" is paramount. When management shows that it takes the disclosure obligations seriously and does not say anything it should not say – not even in a private social setting – the whole company will emulate that behaviour.

The "universe" of the listed company - and the interests of the various stakeholders



Companies which are listed on NASDAQ must comply with a number of rules, whose purpose overall is to provide a well-functioning and orderly market place that investors will trust, and that will protect investors and ensure that they are provided with the information necessary to form an informed opinion on the share price. Any shareholder – private as well as institutional – will regard this as crucial since all investors act or refrain from acting on the information they possess. The rules are mainly set out in the legislation and an attempt has been made to make them accessible in practice in the NASDAQ Issuer Rules and guidelines for both shares and bonds. To get a good start and avoid making too many beginners' mistakes, the company should adopt a set of procedures to comply with the Issuer Rules before the IPO. Instead of approaching the Issuer Rules as a necessary evil, the company would benefit from seeing them as a means of creating awareness of and interest in the company and thereby, hopefully, see its share price increase. The rules are practically the market's claim of "neat and tidiness" after the IPO.

Disclosure obligations

The company is subject to a continuous obligation to disclose all resolutions and other circumstances that may affect the share price. The information must be sufficient to enable third parties to assess the impact of the information on the company and the share price.

It may be difficult to assess when a given fact or circumstance is to be disclosed to the market. The general rule is that **information must be disclosed as soon as possible**, but in certain circumstances disclosure may be delayed if necessary to safeguard the company's legitimate interests and if possible without detriment to the market. Thus, the company must decide on a continuous basis whether a fact or circumstance may be characterised as inside information – and, if so, if disclosure may legitimately be delayed. If disclosure is delayed, a log must be maintained of the inside information as well as the facts or circumstances which make it legitimate to delay disclosure. When the inside information is later disclosed, the Danish FSA must be notified of the delay in disclosure. Finally, the company must ensure that specific (and permanent) insider lists are maintained of all persons who possess the inside information in question.

It is a good idea to have advisers or members of management around who are experienced in these matters. If in doubt, NASDAQ or the Danish FSA is always a good place to ask where management can obtain swift and qualified answers (advice).

Inside information means information:

1. which is specific;
2. which directly or indirectly concerns one or more issuers or one or more financial instruments;
3. which has not been communicated to the public; and
4. which may appreciably affect the price of such financial instruments or any derivatives.

The following examples illustrate when changed expectations to the result for the year may be deemed to constitute inside information:

New expectations to the full year within past announcements

According to one of its past announcements, the company expects a profit in the region of DKK 30-50 million. In the period leading up to the presentation of the half-year report, the company estimates that it now expects a profit of DKK 35-45 million. The new expectations do not vary from the past announcement. The information is thus information that has already been communicated and therefore not inside information.

New expectations to the full year which vary from past announcements

According to one of its past announcements, the company expects a profit in the region of DKK 60-80 million. In the period leading up to the presentation of the half-year report, the company estimates that it now expects a profit of DKK 50-70 million. The company is thus unable to meet the financial targets announced. The information is thus non-disclosed information and must therefore be communicated, provided that the other conditions for inside information are met.

Financial information

Fortunately, by far the major part of the disclosure obligations concern interim financial information, including quarterly or half-yearly financial statements and annual reports. Information about the company's results is, of course, first and foremost a confirmation or denial of whether expectations and statements about the future are correct. If matters or circumstances arise along the way which mean that disclosed expectations and statements will change materially, however, the company cannot delay informing the market until the next interim report. Such changes must be disclosed separately and immediately.

The dates of when the interim reports may be expected to be released must be published in a financial calendar. Although financial conditions vary from one company to the other, the interim reports are to a great extent standard announcements which especially a newly listed company may benefit from preparing a template for so that it will be ready when needed. For the company and its primary wish to obtain a better share price, the key factor

in terms of interim financial information is that the company is continuously able to deliver the financial results indicated to investors.

Other disclosure obligations

Apart from interim financial information, the Issuer Rules also contain a (non-exhaustive) list of various other specific matters or circumstances which will trigger the company's disclosure obligation, including concerning management changes, major orders, investment decisions and cooperation partnerships, business transfers (whether in the form of a share or asset deal), financial difficulties, decisions made by public authorities and information about subsidiaries and associates.

While it is not difficult to see why, for example, an annual report must be published, it may be difficult to determine for a number of the other matters and circumstances, particularly for a newly listed company, if the matter or circumstance is so material as to potentially affect the share price. Again – the best advice would be to ask a qualified adviser or, ultimately, NASDAQ or the Danish FSA.

The annual report

The Danish Financial Statements Act (*årsregnskabsloven*) provides that the management commentary in the financial statements of a company listed on the main market must contain various supplementary information (as compared with non-listed companies) concerning, among other things, capital structure, management's access to have the company issue or acquire treasury shares as well as material agreements which will be affected by an attempted takeover.

Via the Issuer Rules, companies listed on the main market are covered by the **Recommendations on Corporate Governance** and must therefore prepare a report discussing the recommendations. As far as the annual report is concerned, this may be done by inserting a reference to the company's website where the report is available. And it should be noted that the principle of "comply or explain" also applies after an IPO. **Useful and practical guidance** on the recommendations is available, among other things at the Corporate Governance Committee's website. Again, the trick is to approach the rules as what they are – recommendations – and then focus on the fact that they are a **really good tool** to continuously professionalise a company and focus attention on the company's communication and interaction with investors and other stakeholders. Even though a company is listed on First North and not on the main market it is obvious today that compliance with the recommendations has top priority on the agenda.

Channel of information

The Issuer Rules provide that a listed company must have a website where all information published by the company over the past five years (10 years for preliminary announcements of financial statements) to comply with its disclosure obligations must be available. The information must be made available as soon as possible after it has been disclosed via NASDAQ. It does seem kind of strange that it would be necessary to require companies to have a website, but a study of the websites of a number of Danish listed companies shows that many of them provide a bare minimum of information and are not even used actively for modern investor relations management and thereby optimise the companies' situation.

Reporting

The EU Market Abuse Regulation and the Danish Capital Markets Act (*kapitalmarkedsloven*) also contain a number of notification/reporting obligations for the company, major shareholders and management employees when engaging in share trading.

The obligations may come across as formalistic, but they are intended to keep the market up to date on matters such as management's sale and purchase of shares in the company in which they form the management – always a good indicator for other investors. If the company prepares the necessary templates, there is no actual work involved in this.

Restrictions and insider rules

The EU Market Abuse Regulation prohibits abuse of **inside information**, including (i) engaging in or inducing others to engage in insider dealing and (ii) disclosing inside information and also engaging in actions which are likely to affect the price (market manipulation). The provisions are entirely necessary in order to provide a stock market that investors can trust. And the implementation of those rules is very standardised and easy to understand.

Under NASDAQ's rules, the company must adopt an information policy to help the issuer to continuously provide high-quality internal and external information. The information policy must be submitted to the stock exchange. In addition, the company should have a set of internal rules to ensure that inside information is not accessible to anyone other than those who need it. The rules require that the company must maintain specific and, where relevant, permanent insider lists, i.e. a list of which persons have received and are in possession of inside information. The requirements as to format and contents of such lists can be seen on the Danish FSA's website. Persons who are included on an insider list must be informed that they are now on the list and why, and must then actively acknowledge registration and the consequences thereof (i.e. the contents and scope of the restrictions imposed on insiders).

Apart from defining who are insiders, the company must also ensure that management and other employees are instructed in the rules in order to avoid simple and unintentional infractions. For, regardless of the reason for an infraction, it undermines the market's trust in the company, which is neither in the companies' nor in the investors' interest. Again – this is a natural part of the listing process and easy to understand when reading the rules.

Additionally, the company should adopt internal rules for trading in the company's own shares, which is just as understandable.

Management

In Danish company law, there is **no** general requirement as to the skill set of members of boards of directors or a requirement for independence in relation to the company. For companies listed on NASDAQ, however, the rules provide that listed companies must seek to compose their management – the board of directors and executive board – so as to have the necessary expertise and experience to manage a listed company. Today, this should be an obvious requirement for all companies wanting to improve value creation.

Incentive-based remuneration

The Danish Companies Act (*selskabsloven*) provides that the general meeting of a listed company must adopt general guidelines as to their incentive-based remuneration (any kind of variable remuneration) for management – the board of directors and executive board – **before** concluding any agreements in this regard. The Corporate Governance Committee has published its guidance on the specification of the general guidelines for incentive-based remuneration. Management remuneration used to be veiled in secrecy, as if it was a big deal. This very secrecy spawned a lot of questions and media debate. The natural transparency about remuneration practices is one of the issues that the management of a newly listed company will have to get used to.

"Hold your tongue" – one crucial difference

As the CEO or a member of the management team of a newly listed company, you have to realise that your life has changed on one crucial parameter: you and the company are the focus of public attention in a new way. Most like it because they are happy about their company and proud of its development.

The crucial difference between "then" and "now" is that you are no longer allowed to talk with a lot of people specifically about the company's development and performance. There are many examples of leaks that have occurred as a result of small talk or internal newsletters. You have to get used to being non-committal and evasive when talking with employees, dinner guests and other people in a social setting. The best advice that may be given is to stick to what has already been announced to the market – boring, perhaps, but then there will be no infractions and therefore no problems. In this context, a simple exercise for the entire management team to illustrate the importance of keeping quiet is a good investment to impress on everybody the seriousness of leaks and why this is so serious.

> "Hold your tongue – one crucial difference. The best advice that may be given is to stick to what has already been announced to the market – boring, perhaps, but then there will be no infractions ..."

CONCLUSION

If you go the right way about it, the stock market in Denmark is an effective way to raise new equity for successful growth for the benefit of investors, companies and society.

"Going public" has always had a certain ring to it, just as it will always be yet another landmark in any company's life. In our advisory world, it is exciting to take part in such a process, but it is also a craft which isn't that complicated once you know what it takes. Like with most other things in life, all it takes is some common sense, hard, effective work and good planning – to do things in the right order.

With this book, we hope to contribute to demystifying the IPO process. We consider the stock market an effective means to finance growth and ownership transitions in good, well-run Danish companies and in interesting start-ups.

A well-planned IPO and listing process has often resulted in a company adopting a best-practice approach, sometimes even world-class practice, on all levels and through improving what is already a well-run company.

An IPO is thus a new positive step in a company's development and not just a problematic process staged and controlled by advisers. Use the IPO process actively and create a new basis for a good future for the company. Everyone will be very happy and pleased with that.

> "Use the IPO process actively and create a new basis for a good future for the company."

GLOSSARY AND TERMINOLOGY

Allotment	The allocation of shares to investors/purchasers on completion of a share offer.
Data room	Collection of documents for use in connection with a due diligence investigation. A data room may be physical as well as virtual/electronic.
DCF	Discounted cash flow.
Due diligence	Research and analysis of a company done in preparation for a business transaction (such as a corporate merger or purchase of securities)
EBITDA	Earnings before interest, taxes, depreciation and amortisation. A company's operating profit before interest, taxes, depreciation and amortisation on operating activities and goodwill thus reflects its ability to generate profit and liquidity.
ECM department	Equity capital markets department. Department in a financial company handling equity transactions.
FDA approval	Approval from the U.S. Food and Drug Administration (FDA). By way of example, new medicines and medical devices may not be sold in the US until FDA approval has been obtained.
Financial calendar	A listed company's calendar, which is published prior to each financial year and which states the dates of scheduled important events for the company, e.g. publication of interim financial reports and annual general meetings.

First North	First North is an alternative market place operated by the NASDAQ exchanges.
Free float	Represents the portion of shares of a company that are in the hands of public investors as opposed to locked-in shares held by, for example, an owner family not wishing to sell the shares.
Greenshoe	In security issues, a greenshoe option is an over-allotment option. If a greenshoe option is granted, the issuer or a major shareholder in the company grants an investment company or bank participating in the IPO the option of buying a number of shares at the offer price within a specific period after the end of the offer period. A greenshoe option is typically used to cover any loss incurred by the investment company or bank in case of the offer being oversubscribed and the price therefore increasing.
IFRS	The International Financial Reporting Standards applying to listed companies' financial reporting.
Institutional investor	Refers to companies with access to a substantial pool of funds (often other people's money) that is used for investments. Institutional investors are usually found within the insurance and pension fund industry.
Investment agreement	An agreement which lays down the terms and conditions of a specific investment, e.g. an investment in a company, against issue of new shares.
Investor relations	Refers to the communication of information and knowledge between a company and the market.
IPO	Initial public offering, meaning admission of securities to trading on a regulated market.
IPO discount	The purchase of shares in connection with an IPO involves a significant risk and shares offered in an IPO are therefore often offered at a discount, i.e. at less than what the issuer believes the shares are worth.

Issue	In a share issue (new issue) new shares are issued in a company. The shares are subscribed for and purchased against payment, whereby new capital is raised by the company.
KPIs	Key performance indicators. A quantifiable measure defined and used by the company internally and to some extent externally to evaluate the company's success in meeting strategic objectives.
LargeCap, MidCap and SmallCap	Segmentation of listed companies based on market capitalisation. LargeCap: companies with a market capitalisation in excess of EUR 1 billion. MidCap: companies with a market capitalisation of between EUR 150 million and EUR 1 billion. SmallCap: companies with a market capitalisation of less than EUR 150 million.
Letter of intent	The overall framework for a future agreement, e.g. prior to the conclusion of an investment agreement, usually not legally binding.
Lock-up	Prohibition against selling shares in a given period.
Main market	Refers to the regulated markets operated by NASDAQ, meaning Nasdaq Copenhagen's main market here in Denmark.
P/L responsibility	Responsibility for profit and loss, i.e. responsibility for the company's earnings generation
Peer group	A comparable group of companies, e.g. as regards industry or size, by which shareholders and analysts can benchmark the company.
Private equity	Investment through a usually unlisted company in Denmark, usually in partnership or limited partnership form, and usually with funds injected by institutional investors or family offices in the relevant private equity fund for a given period.

Qualified investors

In a prospectus context, qualified investors means: The persons or entities described in Annex II, Title I, (1)-(4), of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004, and persons or entities that on request are treated as professionals in accordance with Annex II of the Directive, or are recognised as eligible counterparties in accordance with Article 24 of the Directive, unless they have requested non-professional treatment.

Request list

List of the information that must be procured in connection with setting up a data room

Securities note

The prospectus to be prepared in connection with an IPO consists of three parts: a share registration document, a securities note and a summary. These three parts may be three separate documents or combined in a single document.

The securities note provides information about the offer shares, including the terms and conditions applying to the offer.

Share registration document

The prospectus to be prepared in connection with a stock exchange listing of shares consists of three parts: a share registration document, a securities note and a summary. These three parts may be three separate documents or combined in a single document.

The share registration document provides various information about the company offering the shares, including information about the company's operations, finances, management and the relevant risk factors applying to the company.

Shareholders' agreement

An agreement made between the shareholders (owners) of a company, the purpose of which is to govern the relationship between the shareholders, including agreements about the financial, operational and management affairs of the company, sale of shares, etc.

Supplementary prospectus	When a prospectus has been published and a significant new factor, material mistake or inaccuracy relating to the information included in the prospectus occurs which is capable of affecting the assessment of the securities, a supplement to the prospectus must be published.
Venture capital	Refers to capital invested in start-ups, usually minority interests.
Verification document	Internal document issued to verify the information provided in a prospectus.

RULES AND GUIDELINES

The Danish Capital Markets Act (kapitalmarkedsloven)
https://www.retsinformation.dk

The Danish Companies Act (selskabsloven)
https://www.retsinformation.dk

Commission Regulation (EC) No. 809/2004 of 29 April 2004 (with amending regulations) (the existing Prospectus Regulation)
http://eur-lex.europa.eu

Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 (the new Prospectus Regulation)
http://eur-lex.europa.eu

Executive Order on Prospectus Requirements (Executive Order No. 1176 of 31 October 2017)
https://www.retsinformation.dk

Executive Order on Conditions for Admission of Securities to Official Listing (Executive Order No 1170 of 31 October 2017)
https://www.retsinformation.dk

The Danish FSA's "Practical information on large prospectuses" last updated on 16 January 2017
https://www.finanstilsynet.dk

NASDAQ's "Rules for issuers of shares"
http://www.nasdaqomxnordic.com/

NASDAQ's "Nasdaq First North Nordic – Rulebook"
http://www.nasdaqomxnordic.com/

Corporate Governance recommendations
https://corporategovernance.dk/anbefalinger-god-selskabsledelse