



**FINANSTILSYNET**

THE FINANCIAL SUPERVISORY  
AUTHORITY OF NORWAY

Circular

# Some accounting-related issues based on financial reporting supervision in 2009

**TRANSLATION OF CIRCULAR**

20/2009

**DATE:**

05.02.2010

**RECIPIENTS:**

Issuers listed on  
Oslo Stock Exchange  
and Oslo Axess whose  
homestate is Norway

**FINANSTILSYNET**

P.O. BOX 1187 Sentrum

NO-0107 Oslo

# 1. Introduction

Finanstilsynet, pursuant to the Securities Trading Act (STA), section 15-1, subsection (3), supervises the periodic financial reporting of issuers of tradable securities which are quoted or have applied for quotation on a regulated market within the EEA, and whose home state is Norway pursuant to the STA, section 5-4. Detailed rules concerning supervision are stipulated in the Regulations to the Securities Trading Act of 29 June 2007 no. 876, chapter 13, part II.

Section 2 discusses some observed weak points and shortcomings in the information disclosed in notes and management reports. The impairment of bonds classified as fixed assets pursuant to the Norwegian Accounting Act is discussed in section 3. Section 4 discusses some situations relating to statements by responsible persons and audit reports, and provides a description of Finanstilsynet's guidelines in the event of delayed periodic financial reporting. It also provides a brief description of the rules concerning dispensations from some reporting requirements in the Securities Trading Act for issuers outside the EEA whose home state is Norway. Section 5 discusses an amendment to the Norwegian Accounting Act which entails entities with listed securities that do not have to prepare consolidated financial statements also having to apply IFRS. It also discusses the technical quality of audit reports in the entities' electronic annual financial statements.

## 2. Accounting issues – IFRS

### 2.1 Financial Instruments – IFRS 7

#### General

Finanstilsynet's supervision of annual financial statements for 2008 uncovered instances in which the information disclosed in notes was insufficient pursuant to IFRS 7. Given the turbulence in financial markets in 2008, Finanstilsynet expected entities to disclose supplementary information regarding financial instruments in their annual financial statements. The standard requires entities to disclose information that enables users of their financial statements to evaluate the significance of financial instruments with respect to the entity's financial position and performance, cf. IFRS 7.7. IFRS 7 also requires entities to disclose information that enables users of their financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed at the end of the reporting period, cf. IFRS 7.31. A substantial portion of the reviewed annual financial statements do not contain sufficient disclosures according to these rules. Insufficient disclosure regarding financial instruments was also a topic of discussion following the review of annual financial statements for 2007. Please refer to the discussion in circular 14/2008 "*Some accounting-related issues based on financial reporting supervision in 2008*". The circular is available on Finanstilsynet's website.

Finanstilsynet expects entities to improve the information they disclose in notes relating to financial instruments in their future periodic financial reporting.

## Disclosures about loan agreement terms (covenants)

If an entity has defaulted on a loan or has breached other terms of a loan agreement, and these breaches permit the lender to demand accelerated payment, this must be disclosed pursuant to IFRS 7.18 and IFRS 7.19. An entity shall disclose details of any default, the carrying amount of the defaulted loan, and disclose whether the default was remedied or the terms renegotiated before the financial statements were authorised for issue.

There are no explicit requirements in IFRS 7 to disclose loan agreement terms if the entity is not in breach of them at the end of the reporting period. However, it will still often be necessary to disclose information about loan agreement terms pursuant to the general requirements in IFRS 7.7 and IFRS 7.31. In the opinion of Finanstilsynet, information about loan agreement terms is more likely to be necessary to understand the nature and extent of risks the closer the entity is to breaching the loan agreement terms.

Finanstilsynet has reviewed disclosures about loan agreement terms in a selection of financial statements for 2008. Some entities do not disclose any information about loan agreement terms, and it is not clear whether or not loan agreement terms exist. Finanstilsynet would like to point out that if an entity does not have such loan agreement terms; information about this is also relevant to the understanding of risks relating to an entity's financial liabilities. It can therefore be necessary to disclose this fact.

Most entities disclose whether or not they have loan agreement terms, and state which criteria they relate to (for example minimum equity requirements, minimum cash reserves, dividend limitations, etc.). However, in many cases it is still difficult to assess the entity's situation in relation to the loan agreement terms on the balance sheet date beyond the fact that the terms have not been breached. As mentioned above, it will often be necessary to disclose information about loan agreement terms pursuant to IFRS 7.31. In such circumstances, it is, in the opinion of Finanstilsynet, important that the information is disclosed in a way that enables users of the financial statements to evaluate the risk of breaching the loan agreement terms and the consequences of such a breach.

## 2.2 Impairment of goodwill

IAS 36.134 stipulates extensive requirements concerning disclosures about estimates which are used to measure recoverable amounts of cash-generating units containing goodwill. The information shall be disclosed for each cash-generating unit for which the carrying amount of goodwill is significant in comparison to the entity's total carrying amount of goodwill.

Finanstilsynet pointed out in circular 14/2008 that a number of entities did not disclose all the information required pursuant to IAS 36.134 in their financial statements for 2007.

Finanstilsynet has observed that in the financial statements for 2008 some entities again disclose insufficient information about the estimates used to measure recoverable amounts for each cash-generating unit. Finanstilsynet would in particular like to point out that the information shall be disclosed for each cash-generating unit, cf. IAS 36.134. If a recoverable amount is based on value in use, information shall be disclosed about the period for which the cash flows are calculated, the key assumptions on which management has based its cash flow projections, and the growth rate and the discount rate that have been applied, cf. IAS 36.134(d). Entities shall also provide a sensitivity analysis if a reasonably possible change in a key assumption would result in an impairment of goodwill, cf. IAS 36.134 (f). Fewer entities

than Finanstilsynet expected disclosed such a sensitivity analysis in their financial statements for 2008.

Please refer to the discussion in section 2.3 of circular 14/2008.

## 2.3 Information in management reports and notes

Finanstilsynet has in several cases found it necessary to refer to the management report in order to find information about important matters in the annual financial statements, and which according to the relevant rules in IFRS should also have been disclosed in the notes to the financial statements. In relation to this, Finanstilsynet would like to point out that management reports do not form part of financial statements as these are defined in IAS 1.8 (IAS 1 revised no. 10), or part of the financial statements pursuant to the Norwegian Accounting Act, section 3-2. The Accounting Act, section 3-3a stipulates requirements regarding the contents of management reports, while requirements regarding disclosures in the notes are regulated by IFRS.

For example, management reports are required to disclose information regarding any financial risk that is significant to the evaluation of the entity's assets, liabilities, financial position and results, the entity's exposure to market risk, credit risk and liquidity risk, and information about the going concern assumption, cf. the Accounting Act, section 3-3a, subsection (6) and (7). In the notes to the financial statements an entity shall, for example, disclose information that enables users of its financial statements to evaluate the significance of financial instruments with respect to its financial position and performance, information about the nature and extent of financial risks, and going concern information, cf. IFRS 7.7, 7.31 and IAS 1.23 (IAS 1 revised no. 25). Finanstilsynet would like to emphasise that information which must be presented pursuant to IFRS, must appear in the annual financial statements even if the information is also presented in the management report.

Finanstilsynet would also like to stress the importance of ensuring that disclosures that appear in financial statements concur with disclosures that appear in management reports.

## 3. Accounting issues – Norwegian accounting rules

### 3.1 Impairment of bonds classified as fixed assets

Pursuant to the Norwegian Accounting Act, section 5-3, fixed assets shall be impaired to fair value upon a decline in value that is not expected to be temporary in nature. The fair value of bonds can vary as a consequence of changes in levels of interest rates, changes in the bonds' credit risk, and changes in the market's general risk premium.

Finanstilsynet would like to emphasise that the probability of the bond being paid back in its entirety upon maturity is not relevant in the assessment of impairment. In the preliminary work on the Norwegian Accounting Act (Proposition to the Odelsting no. 42 (1997-1998)

point 7.5.5) it is clear that the Ministry expects the general criteria in force to also apply to the impairment of financial fixed assets. It is assumed that market values lower than the acquisition costs of financial fixed assets must be synonymous with a lasting decline in value which will result in impairment. It is also evident that a change in value of a financial fixed asset due to, for example, a change in interest rates, cannot be regarded as temporary. It is pointed out in the preliminary work that both the directive and the existing Norwegian rules are based on an impairment criterion that relates to price formation and not to the individual investor's intentions. Pursuant to the Norwegian Accounting Act, section 5-3, an assessment of fair value compared to the carrying amount on the balance sheet date has to be carried out, and changes in the level of interest rates, changes in credit risk, and changes in the market's general risk premium have to be taken into account when calculating fair value.

Special assessment rules apply for financial institutions that report pursuant to the regulations relating to financial statements, etc, for banks, financial institutions and their parent companies (*Forskrift om årsregnskap m.m. for banker, finansieringsforetak og morselskap for slike*). These entities can classify financial assets as "investments held to maturity", cf. section 3-4 of the regulations.

## 4. The Securities Trading Act

### 4.1 Statements by responsible persons

Pursuant to the STA, section 5-5, subsection (2), an annual financial report shall comprise the audited financial statements, the management report, and statements made by the persons responsible within the issuer, whose names and functions shall be clearly indicated, to the effect that:

- a) to the best of their knowledge, the financial statements have been prepared in accordance with applicable accounting standards and give a true and fair view of the assets, liabilities, financial position and profit or loss of the issuer and the group taken as a whole and that
- b) the management report includes a true and fair review of the development and performance of the business and the position of the issuer and the group taken as a whole, together with a description of the principal risks and uncertainties that they face.

The Securities Trading Regulations, section 5-2, states with regards to Norwegian issuers, that the board members and the manager effectively in charge shall issue the statements. According to the STA, section 5-6, the half-yearly financial report shall also provide statements by responsible persons.

Finanstilsynet has reviewed a sample of annual financial statements for 2008. The sample contains issuers from Norway and issuers outside EEA whose home state is Norway. Every fifth annual financial report lacks the required statements by responsible persons pursuant to the STA, section 5-5, subsection (2). In addition every seventh entity in the sample has included the statements by responsible persons in the management report. In the opinion of

Finanstilsynet the statements by responsible persons shall, pursuant to the STA, section 5-5, subsection (2), be provided separately and not as part of the management report.

Finanstilsynet expects entities to include the statements by responsible persons in accordance with the Securities Trading Act in future reporting.

## 4.2 Audit reports – obligation to notify when clarification and/or audit reservation

Finanstilsynet has reviewed the audit reports of the issuers listed on the Oslo Stock Exchange and Oslo Axess whose home state is Norway. The review revealed that 30 issuers have clarifications and/or reservations in their audit report for 2008. Only five of those notified Finanstilsynet. Finanstilsynet would again like to stress that pursuant to the STA, section 5-5, subsection (5), issuers have an obligation to notify Finanstilsynet if the auditor finds that the financial statements should not be approved as presented, or has made clarifications or stipulated audit reservations in the audit report. Such notifications shall be sent as soon as the audit report is received by the issuer.

Finanstilsynet expects issuers to comply with this duty to report in the future.

## 4.3 Delayed periodic financial reporting – violation charge and suspension

Pursuant to the STA, section 5-5, subsection (1), *“the annual financial report shall be made public at the latest four months after the end of each financial year”*. The requirement to publish the half-yearly financial report and the quarterly report by share issuers, is *“as soon as possible”* after the end of the relevant period, but at the latest two months after, cf. the STA, section 5-6, subsection (1), and the Securities Trading Regulations, section 5-5, subsection (5). The STA provides no access to grant dispensations from these deadlines.

Pursuant to the STA, section 17-4, subsection (2), Finanstilsynet may impose a violation charge on issuers of quoted transferable securities *“whose financial reporting is not in conformity with law or regulation, where the violation was committed wilfully or through negligence”*. The deadlines for publication of periodic financial reports are regarded as absolute, and any exceeding of a deadline will normally be sanctioned. For more information, please see the guidelines on violation charge related to periodic financial reporting on Finanstilsynet’s website under: Listed entities/periodic information/reporting.

Finanstilsynet would like to take this opportunity to reiterate that financial reports have to be sent to the official storage mechanism (OAM) at the Oslo Stock Exchange *at the same time* they are made public.

From and including reporting for the fourth quarter 2009, Finanstilsynet will suspend the listings of financial instruments and order a temporary halt to trading on Multilateral Trading Facilities if periodic financial reports are not submitted, cf. the Regulated Market Act, section 25, subsection (3), and the STA, section 15-7, subsection (7). Suspension will normally be enforced two months after the deadline for the annual report and one month after the

deadlines for interim reports. This applies to both quoted equities and non-equity securities. Please note that issuers must comply with the ongoing duty to disclose information independent of the periodic reporting.

The relevant issuers will receive advance notice before suspensions are enforced. Suspensions will be lifted once the financial reports have been published. If reports are not forthcoming, the Oslo Stock Exchange/Oslo Axess can follow up suspensions with delisting.

#### 4.4 Dispensations for issuers from outside the EEA whose home state is Norway

The STA, sections 5-5 and 5-6, stipulate requirements regarding the content of the annual financial report and the half-yearly financial report. These provisions also apply to issuers from outside the EEA whose home state is Norway. However, these issuers can apply to Finanstilsynet for dispensations from certain reporting requirements: cf. Securities Trading Regulations, section 5-7. An issuer must satisfy equivalent requirements pursuant to the law of a third country in order for dispensations to be granted. The Securities Trading Regulations refer to the provisions of Commission Directive 2007/14/EC, which have to be met in order for a third country's rules and regulations to be deemed equivalent to the Norwegian legislation.

The requirements for which an issuer can apply for dispensations for relate to the annual and half-yearly management report, statements by responsible persons, individual accounts of the parent company, and the use of other recognised accounting principles if the issuer is not required to prepare consolidated financial statements. For example, all issuers from countries outside the EEA whose home state is Norway have to prepare their annual management reports in accordance with Norwegian legislation, i.e. in accordance with the Norwegian Accounting Act, section 3-3a, which lays down requirements regarding the content of annual management reports. For example, an issuer from Canada listed on the Oslo Stock Exchange can apply for confirmation that the Canadian rules regarding the content of annual management reports are equivalent to the relevant provision in the above-mentioned Commission Directive. This provision lays down fewer requirements than the Norwegian Accounting Act, section 3-3a. If Finanstilsynet regards the Canadian rules as equivalent, the issuer does not have to prepare their annual management report according to the Norwegian Accounting Act section 3-3a, but can publish an annual management report which is prepared in accordance with Canadian legislation. However, the annual management report must be disclosed and be sent to the official storage mechanism in accordance with the relevant provisions in the Securities Trading Act. An issuer must be obliged to fulfil the rules for which the issuer is seeking "equivalence". For example, a Canadian issuer, listed in the USA, is obliged to fulfil the US rules as the issuer is listed there, and can apply for equivalence.

If an issuer wishes to utilise the dispensation provisions in the Securities Trading Regulations, section 5-7, an application for equivalence confirmation must be sent to Finanstilsynet with an explanation of which rules the issuer considers "equivalent".

## 5. Miscellaneous

### 5.1 Amendment to the Norwegian Accounting Act, section 3-9

An amendment to section 3-9 of the Norwegian Accounting Act has been adopted which entails that issuers with quoted securities that do not prepare consolidated financial statements are required to prepare financial statements pursuant to IFRS, cf. amendment act of 19 June 2009 no. 48 (*Lov om endring 19. juni 2009 nr. 48*). The number of issuers required to comply with the IFRS rules has been expanded out of consideration to the comparability of the financial statements of issuers from Norway, both national and in relation to foreign issuers, which report pursuant to IFRS. The amendment will enter into force for financial years commencing on or after 1 January 2011, cf. *Royal Decree of 19 June 2009 no. 693*.

### 5.2 Audit report – technical quality

Finanstilsynet has reviewed the audit reports of issuers listed on the Oslo Stock Exchange and Oslo Axess that are subject to Finanstilsynet's financial reporting supervision. The audit reports were found in the issuers' electronic, PDF format, versions of their financial statements. The review revealed that a relatively large number of the audit reports are of such a low technical quality and have such unclear graphics that the audit reports are difficult to read. Some audit reports are almost illegible. This applies to both printouts and when reading the audit report onscreen. Finanstilsynet has not checked if this is also the case in the relevant paper versions of these annual financial reports.

In future financial reporting, Finanstilsynet expects issuers to ensure that audit reports are of a technical quality that makes them easy to read in all versions of their annual financial reports.

Anne Merethe Bellamy

Siw-Mette Thomassen

#### **Contact persons:**

Siw-Mette Thomassen, tel. +47 22 93 99 46, e-mail: [siw-mette.thomassen@finanstilsynet.no](mailto:siw-mette.thomassen@finanstilsynet.no)

Nina Servold Oppi, tel. +47 22 93 97 17, e-mail: [nina.servold.oppi@finanstilsynet.no](mailto:nina.servold.oppi@finanstilsynet.no)

Unni Persson Moseby, tel. +47 22 93 97 22, e-mail: [unni.persson.moseby@finanstilsynet.no](mailto:unni.persson.moseby@finanstilsynet.no)



