

# OTC Markets Advisor Insights Podcast

Advokatfirmaet Ræder

Season 2 | Episode 1

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- OTC Markets Group: From OTC Market's global headquarters in New York City, you are listening to Advisor Insights where we feature professionals that will address the issues that affect the small-cap companies that trade on the OTC Market. Today, we have two special guests joining us, Carl Clausen and Erik Aasland from Advokatfirmaet Ræder, a Norwegian-based law firm that serves as an OTCQX sponsor. Carl, Erik, thank you very much for joining us today. So to get started, can you provide a bit of an introduction about Ræder?
- Carl: Certainly at first, let me say thank you for inviting us to participate in this podcast. We greatly value this working relationship. A little bit of background on the law firm, Advokatfirmaet Ræder is situated in Oslo. We have about 50 lawyers. We have a general business practice, sort of a full service law firm covering all aspects of Business Law and Corporate Law. And we have a sort of a significant focus on, our practice is Securities Law and Capital Markets.
- OTC Markets Group: So let's get started from the beginning. Carl, can you explain why Ræder applied and qualified to become an OTCQX sponsor?
- Carl: Yeah, certainly. We have a sort of a broad substantial international practice in the firm. We have for many years assisted U.S-Norwegian clients on cross border investments and transactions. Both Erik and myself have a background from the U.S. We are both qualified in New York and started our practice there and worked for law firms in New York city for many years. And we had the firm's U.S. Corporate Desk. So on the strength of our New York qualifications and the firm's capital markets practice, Ræder was last year appointed as an OTCQX sponsor. And we assist Nordic companies with application and admission to both OTCQX and OTCQB.
- OTC Markets Group: So can you talk a bit about your experience thus far with our two top markets, OTCQX and OTCQB?
- Carl: We have some background with OTCQX and OTCQB before becoming a sponsor. Going back actually to 2015, we assisted one Norwegian technology company listed on Oslo Bors in their application to OTCQX. And last year we assisted another technology company in their listing on OTCQB. So as I said, last year we became OTCQX sponsor, and which was the first one in the Nordic region. And currently there are five companies on the OTCQX, OTCQB from Norway, and we have then sort of assisted two of those companies with applications. And at the present time, we are in ongoing and several discussions with Norwegian and Nordic issuers, which consider an application to OTC Markets.
- OTC Markets Group: Now, Erik, let's switch to you for a second. What are the differences for a Nordic company to be listed on either a U.S. exchange or the OTCQX or the OTCQB Markets?
- Erik: Thanks Matt. Good question. Firstly, I do think it's important to recognize that the U.S. remains by far the largest and most attractive public equity market in the world. Last figures I saw indicated that the U.S. capital market constitutes approximately 45% of the global capital market. And as you probably are aware, U.S. capital market is highly developed, it's marked by sophisticated technology, specialized financing institutions and functions. All in all, it's a very well working capital market. That being said, in the event of non-U.S. company wishing to have its securities traded on an ordinary U.S. stock exchange such as New York Stock

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Exchange or NASDAQ, which is probably the most well known stock exchanges in Europe, that would require SEC Sarbanes-Oxley (SOX) and U.S. GAAP reporting requirements, as well as what is still a lengthy process. And there are going to be significant associated costs with the listing.

And also with respect to its ongoing obligations as well. Such listing may be attractive and appropriate for some companies. However, the OTCQX and OTCQB provides an avenue for companies listed on international exchanges that have their shares quoted in U.S. dollars. Their shares will be traded by U.S. brokers and investors during U.S. market hours. That being without the complexity of SEC Sarbanes-Oxley filing requirements or U.S. GAAP financial reporting. OTCQX and OTCQB are both SEC recognized public markets and they're both regulated by The Financial Industry Regulatory Authority in the U.S. Admission to the OTCQX and OTCQB as for being a regulated market, it's very simple and efficient. And in my view, that's evidenced by the sheer number of companies from around the world that is traded on OTCQX and OTCQB Markets.

As you probably know, there's currently approximately 11,000 U.S. and global securities that do trade on the OTC Market including some of the largest and most well known brands such as, Adidas, Heineken, Roche, BNP Paribas, Hugo Boss and a number of other well known companies as well. As per now, and as Carl mentioned, there are currently five Norwegian companies on the OTCQX and OTCQB, but we certainly do believe that a number of additional companies would benefit from cross trading their securities. And we do anticipate an increased number of applications coming from the Norwegian market.

OTC Markets Group: Erik, thank you. Carl, now let me ask you in anticipation of all these companies that perhaps may be interested, what sort of Nordic companies would work well or would an OTCQX and OTCQB listing be relevant for?

Carl: OTC Markets utilizes the special SEC exemption in the U.S, which allows companies that are listed on so-called foreign exchanges and meeting the legal definition of being a foreign private issuer to cross trade on OTC, utilizing and relying on their whole market disclosures. So long as the disclosures are in English. So in Norway, the qualified foreign exchanges are Oslo Bors, Oslo Stock Exchange and the market bases Oslo Axxess, which is now called Euronext Expand and Merkur Market, which is now called Euronext Growth. All that following Oslo Bors joined Euronext Group in 2019.

Interestingly in terms of recent developments, Merkur Market or Euronext Growth was not recognized as a qualified foreign exchange until quite recently. In December last year, OTC Markets approved Euronext Growth as a qualified foreign exchange. And that is a market page which has become an increasingly popular trading platform in Norway with several new listings in 2020. In fact, last year, a vast majority, and I believe it was around 40 out of the 54 new listings on Oslo Bors were on Euronext Growth. And companies on Euronext Growth are then eligible to apply for trading on OTCQX and OTCQB.

OTC Markets Group: Erik, Carl just spoke about which companies in the exchanges in Norway. Can you talk about any specific industries where cross trading in Norway and the U.S. may be particularly relevant or beneficial?

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Erik: As you know, 2020 has been a very particular year with capital markets. And I think we're still to-

OTC Markets Group: Say the least, I think, right?

Erik: Yeah. We're still a bit outside of norm. That being said, within Norwegian market there's been a significant focus on ESG clean energy and tech. Of the 54 companies that was listed as Carl mentioned, 20% were tech and about 17 were green stocks. We do and anticipate a number of new listings being in the pipeline for 2021. We're working on some, and we do get reporting from both brokerages as well as other law firms working on new listings. And we do expect the same relative sector distribution for such listing to be equal to the distribution that we had in 2020. We do have a number of exciting and innovative companies in Norway within those sectors.

We anticipate that they may increasingly be looking to the U.S. market, especially now that the Biden administration is expected to come in a short time. And we expect them to leverage their U.S. or their clean energy investments towards being both improving the economy, as well as delivering on the new president's climate pledges. We've spoken with several companies in Norway who view this anticipated shift in focus and priorities from U.S. as very positive for their business and the business in which they operate. Our view is that for such companies, U.S. marketing cross trading in Norwegian as well as U.S. securities may be very attractive opportunity.

OTC Markets Group: I would agree with that, but I'm a little biased. So Carl, let's address a question that a lot of companies face. How can you meet the criteria of being a foreign private issuer and be exempt from the Exchange Act or SEC registration?

Carl: Certainly Matt, now we're getting into sort of the legal bits and pieces. A company must pass one of the following tests to qualify as a foreign private issuer. The first test is, that the company is incorporated outside the U.S. and more than half of the starting securities are owned by non-U.S. residents. And companies that meet those requirements would be automatically qualified as a foreign private issuer.

The second test, if the company fails the first test, it can still qualify as a foreign private insurer. That would be in the situation where the company is still outside the U.S., but where sort of more than 50% of the shares are held by U.S. residents. In those cases, they would qualify unless the three following factors would not apply. And those factors are, the majority of the company's officers and directors are U.S. citizens or residents, more than 50% of the assets are located in the U.S. or the company's business that is administered principally in the U.S. If none of those three apply, then the company would qualify as a foreign private issuer.

And once the foreign private issuer status has been established, the U.S. Securities Exchange Act exempts the foreign private issuer from Exchange Act and SEC registration if the issuer has published non-U.S. disclosure documents in English on its websites or electronically in the foreign trading market. So in this manner, the company would leverage its own local market disclosure by republishing the same disclosures through the OTC. So in other words,

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the company would rely on whole market disclosures and there would be no disclosure obligations over and above what the issuer is already subject to in the primary trading market. So a foreign private issuer meeting those requirements, would immediately be exempt from Exchange Act registration in the U.S.

OTC Markets Group: Now for those companies and those industries that we spoke about before that would benefit from a cross trading the U.S. on the OTC Markets. Can you talk about some of the eligibility requirements for the OTCQB and OTCQX?

Carl: Yes. So in addition to what I said about foreign private issuer status and being exempt under the Securities Exchange Act in the U.S, there are application criteria and from the OTCQX and OTCQB. And there are financial standards and requirements that must be met, including what is called as a Penny Stock Test. And there are thresholds to be met in regard to bid price, global market capitalization and number of shareholders. And the company cannot be subject to bankruptcy or reorganization proceedings.

OTC Markets Group: And Erik, can you talk a bit about the benefits of Blue sky clearance in the U.S. market?

Erik: Well, Blue sky clearance in U.S. market refers to state securities laws. That's supposed to the federal laws such as the more well known ones, Securities Act and Securities Exchange Act. In order for broker dealers to be able to recommend, solicit or even discuss the security with the investors in any of the U.S. states or territories, the security must comply with the Blue Sky law of the state or the territory where the actual investor resides. Blue sky laws, generally help investors make an informed investment decisions based on accurate and current information from the issuer. And importantly, OTC markets works with state regulators to achieve Blue Sky exception for OTCQX and OTCQB in the individual states, which would increase liquidity and depth in the market and the issue security and expand the ability of a broker dealer to recommend the securities. If you join the OTCs premium market OTCQX, the issuer will be insured Blue Sky clearance in the whole U.S. market.

OTC Markets Group: Carl, last question I have today. How can Ræder, as an OTC sponsor assist in the process of joining the OTC Markets?

Carl: The role is twofold. First, we would generally assist the company with sort of guidance in respect of understanding the responsibility under the OTCQX rules, and the criteria for exemptions for foreign private issuers and assist in respect of market disclosures and ensuring that the disclosures in the whole market would meet the thresholds required under the exemption for foreign private issuers. Secondly, and importantly, as a sponsor, we would submit a letter of introduction to OTC Markets on behalf of the issuer, where we as a sponsor would confirm to OTC Markets that the issuer meets the OTC rules and criteria. Here on, are the requirements for exemption from registration under the Securities Act. This is a one time requirement, which later OTC Markets would be able to rely on in respect of the issuer in its in the application process.

OTC Markets Group: Carl, Erik, thank you very much for joining me today. This was excellent. I hope the Nordic companies get as much as I did out of this today and why really does benefit them to join the OTC Markets. And if they have any questions they should reach out to you and they can find

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your contact information on our website under the OTCQX sponsor list. So once again, Carl, Erik, thank you very much for joining.

Erik: Thanks, Matt. It's a pleasure.

Carl: Certainly it's been a pleasure. Thank you.

*\*This is an autogenerated transcript and may contain typos.*