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Euronext Growth Oslo: The Balancing Between Investor Protection and Efficient Markets

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Summary

The topic for this thesis is the investor protection on Euronext Growth Oslo ("Growth"). More specifically we will analyse the balance between investor protection and listed companies' need for raising capital efficiently.

Growth is a Multilateral Trading Facility (MTF) established by Oslo Børs ASA in 2016. MTFs have less regulations than ordinary regulated markets, such as Oslo Børs. Growth had a significant increase in activity in the second half of 2020 and the beginning of 2021, and many of the companies have been priced quite high. However, many have criticised the marketplace for weak investor protection. Thus, we review the regulations on Growth by comparing it to the regulations on the main market, Oslo Børs. We review both the admission rules and the disclosure requirement, and find it most relevant to further analyse the disclosure requirements.

The disclosure requirements we analyse are the obligation to disclose large shareholdings, the requirements to report with IFRS and ESG reporting. As the rules are only applicable to the regulated markets and not MTFs, we discuss whether these are rules that should also apply to Growth. Our objective is to investigate whether these sets of rules could lead to increased investor protection on Growth, without having obvious disproportionate costs.

Based on our review, we have concluded that it will be beneficial to introduce a more comprehensive obligation to disclose large shareholdings on Growth. However, based on the situation today, it appears like that the costs will outweigh the benefits if mandatory IFRS and ESG reporting requirements are introduced.

Preface

This master thesis marks the end of the Business & Law program with specialization in corporate finance at BI Norwegian Business School.

We chose to write about Euronext Growth Oslo due to our interest in capital markets and capital market regulation. We would like to thank Morten Kinander who inspired us to write about this topic, which proved to be highly relevant and timely. There is a limited amount of information and previous research of the marketplace, which made it even more interesting to work with. Further, we would like to thank our interviewees for providing valuable knowledge and insight about the marketplace and the roles of its different players. These interviews were key to gain a deeper understanding of Growth. We would also like to give a special thanks to those who have taken the time to read through and given us helpful feedback.

Finally, we would like to thank our supervisor Caroline Bang Stordrange. She inspired us to write about the investor protection on Euronext Growth Oslo, which we found to be highly interesting. She has provided us with valuable insight and knowledge on the subject. Further, she has come up with constructive criticism, as well as provided quick and valuable guidance along the way.

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Abbreviations

APM	Alternative Performance Measures
c.f.	Compare
CAPM	Capital Asset Pricing Model
CEO	Chief Executive Officer
CSR	Corporate Social Responsibility
EBITDA	Earnings before interests, taxes, depreciations and amortizations
EEA	European Economic Area
EMH	Efficient Market Hypothesis
EU	European Union
ESG	Environmental, Social and Governance
Growth	Euronext Growth Oslo
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
M&A	Mergers and Acquisitions
MAR	Market Abuse Regulation
MiFID I	Markets in Financial Instruments Directive I
MiFID II	Markets in Financial Instruments Directive II
MTF	Multilateral Trading Facility
NASB	Norwegian Account Standards Board
NCGB	Norwegian Corporate Governance Board (NUES)
NGAAP	Norwegian Generally Accepted Accounting Principles
NOTC	Norwegian over-the-counter
NOU	Norway's public reports
OECD	The Organisation for Economic Co-operation and Development
P/E	Price-to-Earnings ratio
SME	Small and Medium-sized Enterprises
VPS	Verdipapirsentralen [Central Securities Depository]

1 Background and Context

1.1 Introduction

Euronext Growth Oslo, hereby referred to as Growth, is a marketplace that was established by Oslo Børs ASA in 2016.[1] It was created due to a demand for a marketplace where shares of small and medium-sized enterprises (SMEs) could be listed. The marketplace covers the gap between the regulated markets and the Norwegian over-the-counter market - Oslo Børs, Euronext Expand and NOTC. Unlike over-the-counter markets, Growth is not an unregulated market, but is regulated as an MTF under the Norwegian Securities Trading Act. Compared to Oslo Børs and Euronext Expand, the admission rules are simpler. However, the Market Abuse Regulation (MAR) applies to both regulated markets and MTFs. Hence, rules such as disclosure of inside information, prohibition of insider dealings and market manipulation also apply for Growth.

The marketplace has received a great deal of attention in recent times, and this topic is therefore both current and highly relevant. In the past year, there has been a significant increase in activity, and the marketplace had 49 new listings in 2020. For comparison, they had 3 listings in 2019. As of June 9, 2021, there are 106 companies listed. Many of the companies have done well so far, and some of the shares have been priced quite high. In fact, in March 2021 the shares on Growth were calculated to be among the most expensive in the world.[2]

Following the significant increase in listings in 2020, the marketplace has been criticized for a lack of investor protection. The critics are claiming that it is currently too difficult for investors to know what they are investing their money in. This is supported by KPMG, who released a report in February 2021, where they question whether there is adequate information available for the investors that allows for

[1] Euronext Growth Oslo is a Multilateral Trading Facility (MTF) in Norway. The marketplace is operated by Oslo Børs ASA, who is owned by Euronext N.V., a stock exchange company with a base in Amsterdam. Euronext operates securities markets in Amsterdam, Paris, Brussels, Dublin, Lisbon and Oslo. Oslo Børs ASA operates three marketplaces - Oslo Børs, Euronext Expand and Growth. Growth was established by Oslo Børs ASA in 2016, under the name Merkur Market. Due to Euronexts acquisition of Oslo Børs in June 2019, the name Merkur Market was changed to Euronext Growth in November 2020 (Oslo Børs, 2020).

[2] This is discussed in more detail in chapter 1.3.

proper analysis of performance, risk and return. Further, in 2021 the Norwegian Financial Supervisory Authority started an investigation of all the listings on Growth in the second half of 2020 and so far in 2021, due to the significant amount of new listings in this time period.[3]

Based on the above, our research question for this thesis is whether the balance between investor protection and the consideration of smaller companies' need for raising capital quickly and efficiently should be different on Growth.

In order to answer our research question, we firstly need to investigate what kind of balance is currently set out in the regulation of Growth. We mainly base our analysis on national legislation, whereas many of the provisions we analyse are highly based on EU law. We will also review Euronext's market rules where it is necessary.

This thesis consists of four chapters. The first chapter begins with a presentation of the concept of MTFs, followed by a review of the recent developments on Growth and an assessment of the marketplace by comparing the regulation to the regulated market, Oslo Børs. The second chapter is a description of the methodology used in the thesis. In the third chapter we consider three sets of rules that apply to Oslo Børs, and discuss whether these should apply on Growth. Finally, conclusions and remarks are made in the last chapter.

1.2 Multilateral Trading Facilities

Growth is not classified as a regulated market by legal definition like Oslo Børs and Euronext Expand, but is regulated as a *Multilateral Trading Facility* (MTF) by the Securities Trading Act. The term multilateral is used because the market has several members who are able to interact with each other to set the prices.

The conditions for obtaining a licence to operate an MTF are set out in the Securities Trading Act Chapter 9, part I and III. The concept of MTFs is based on EU legislation, and was first introduced in MiFID (Directive 2004/39/EC). The definition of an MTF was given in Article 4.15:

[3] This is discussed in more detail in chapter 1.3.

> ‘Multilateral trading facility’ or ‘MTF’ means a multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with Title II of this Directive.

This definition was maintained in MiFID II (Directive 2014/65/EU), Article 4.1 (22). When MTFs were introduced, it allowed for different levels of regulation of capital markets, and filled a gap between the over-the-counter markets and the traditional regulated markets. An MTF is less regulated than the regulated market. Getting listed on an MTF thus involves less comprehensive rules for admission. As a result, it is particularly relevant for SMEs, start-ups and companies with plans of “up-listing” to the main market.

Although Growth has fewer regulations, several of the disclosure requirements are the same as for the regulated markets. For instance, the Market Abuse Regulation (MAR) applies for financial instruments traded on an MTF, cf. MAR (Regulation (EU) 596/2014) Article 2.1. MAR entered into force in Norway March 1, 2021, by being incorporated in the Securities Trading Act with reference to MAR, cf. section 3-1. The purpose of MAR according to Article 1 is to create common rules for insider trading and market abuse to ensure the integrity of the financial market in the union, investor protection and trust in these markets. High confidence in the capital market will lead to a more efficient market for raising capital for business and industry (Flock, 2017).

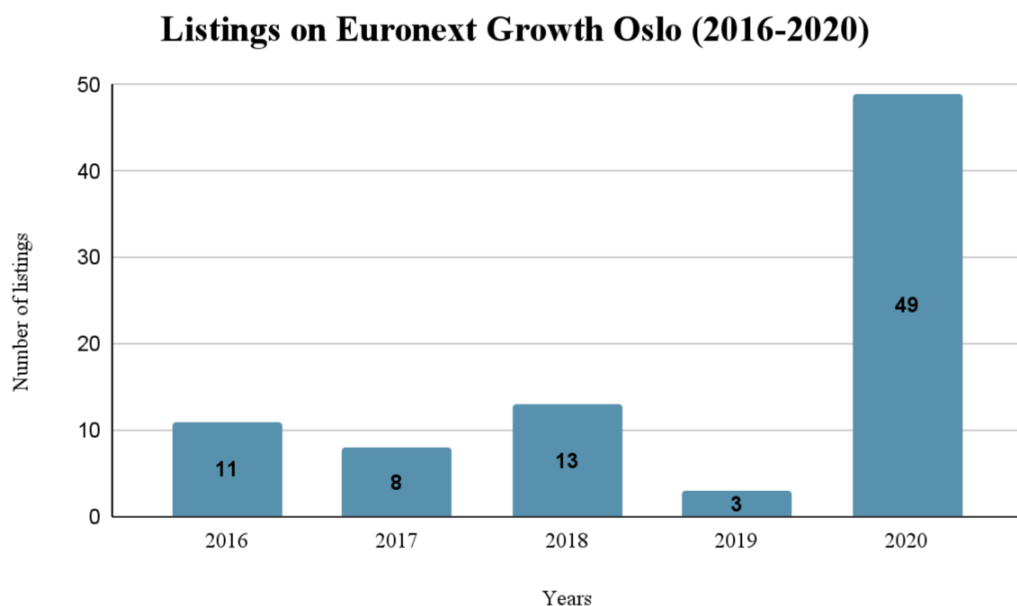
1.3 Developments in the Market

In this chapter, we will review Growth's development in order to gain an understanding of how the marketplace received increased attention in 2020-2021. We consider various articles, where especially the regulation of Growth has been discussed, to discover whether there could be any particular issues in terms of regulations that should be analysed in more depth.

When Oslo Børs established Growth, it was due to an increased interest for a marketplace for smaller companies and start-ups, along with a demand for faster listings, but also sufficient investor protection. Oslo Børs considered establishing

an MTF for several years, but finally decided to establish the marketplace in 2016 because they saw a shift in interest towards other types of industries than for example offshore, oil and gas, after the fall of the oil prices in 2015. Consequently, there was a need for a marketplace for smaller companies and start-ups.[4]

From the establishment in 2016 until the beginning of 2020, there was limited activity in the marketplace. Oslo Børs saw both companies and investors in the marketplace that were not quite suited. As a consequence, Growth struggled with a poor reputation. In 2016, the rules were thus tightened to avoid attracting unwanted companies and investors. They implemented stricter admission rules, higher pricing to get listed, and the Growth Advisors regime.[5] Nevertheless, the low activity continued right until the second half of 2020, as shown in the graph below (45 out of 49 listings came in the second half of 2020).



Graph 1: Listing on Euronext Growth Oslo. Source: Oslo Børs (n.d.)

One expectation many market players had about the market developments for 2020, with the Covid-19 pandemic highly present in Norway since March 2020, was that there would be little investment activity. However, the development that actually took place in the second half of 2020 was clearly the opposite. In the year of 2021,

[4] As stated by the CEO and President of Oslo Børs, Øivind Amundsen in an interview 23 February 2021.

[5] For a more detailed explanation of this regime, see chapter 1.4.2.

the trend of frequent listings has continued. As of June 9, 2021, there have been 43 new listings on Growth. This is already higher than the total number of listings from 2016 to 2019.

To explore possible reasons behind the developments in the marketplace in the second half of 2020, we spoke with several representatives from relevant industries. A common opinion was that the increased activity in 2020 was due to a combination of several factors that together had a significant impact. Specifically, there were three factors that recurred:

- Low interest rates. The key interest rate in Norway has been 0 percent since May 2020 (Norges Bank, 2021). When interest rates are low, it is less attractive to invest in bonds or place money in the bank, and the equity market becomes more attractive.

- Investors had money that needed to be reinvested. Many investors have mandates and must invest money in the capital market.

- Increasing interest among investors to invest in companies that focus on ESG and technology, along with the fact that there were many good investment opportunities in these industries. Several companies had good ideas and plans to grow.

From the issuers' perspective, Growth is an attractive marketplace due to the rapid admission process. Furthermore, the Norwegian entrepreneurial culture has contributed to the increased listings in 2020. As many start-ups grow overtime, they will need capital. However, these companies are usually not mature enough to get listed on the regulated market. Therefore, Growth could be a good alternative. Getting listed on Growth could also be a step in the process of getting listed on Oslo Børs.[6] Further, many brokerage houses have a requirement for their clients to only invest in companies that are listed on a regulated market or have plans to do so.

[6] Many companies that have been listed on Growth have already been up-listed to Oslo Børs. For instance, in 2020 the company BEWi got listed on Growth in August and up-listed to Oslo Børs already in December.

The fact that Oslo Børs was acquired by Euronext in 2019 might also have led to a greater interest from foreign investors (Fagervik & Pettersen, 2021, p. 12). This could in turn have contributed to making it easier for the companies to raise capital and get listed.

Several of the companies on Growth have also done quite well since they were listed. In fact, in March 2021, the Investment Director of Nordea in Norway calculated that the shares on Growth were among the most expensive in the world, and that the average P/E ratio[7] was 537 - about 18 times the earnings on Oslo Børs (Nilsen, 2021). A P/E ratio of 537 indicates that investors are willing to pay 537 times the company's earnings to purchase a share. With high pricings comes higher risk, especially due to the fact that many of the companies listed on Growth are start-ups, and are not yet generating profit.

As a result of the increased number of listings and activity in the marketplace, criticism gradually came from various parties. Some have claimed that either the admission rules or the disclosure requirements do not provide sufficient investor protection. In the following, we will give examples of some of the criticism that have been raised.

One article from February 2021 claims that it is too simple for companies to get listed on Growth, and as a consequence, the investors do not really know what they are investing in (Magnus & Solgård, 2021a). Another article calls for stricter regulations in the marketplace, claiming that the protection of smaller unprofessional investors is a problem (Magnus & Solgård, 2021b). These views are substantiated by the fact that the Norwegian Financial Supervisory Authority sent a letter to investment firms in October 2020. In this letter they reminded the investment firms of their duty to provide clients with good information about risk and their duty to ensure that clients have the necessary knowledge and experience to understand this risk (Finanstilsynet, 2020a). The fact that the Financial Supervisory Authority sent this reminder, emphasizes the importance of investor

[7] P/E ratio, short for Price-to-Earnings ratio, is the ratio of the value of equity to the firm's earnings, and is a simple measure used to assess whether a stock price is over- or under-valued based on the idea that the value of a stock should be proportional to the level of earnings it can generate for shareholders (Berk & DeMarzo, 2020, p. 77).

protection when there is an increased amount of investors, in particular unprofessional investors.

The admission rules were criticised in an article from February 2021, where it was expressed that some of the companies might promise far more than they could fulfil, and that there should be greater responsibility on the regulatory authorities to assess the legislation for listings. Further, some have questioned whether one should follow up the companies and see what they promised at the time of the listing, or if companies should continue to present what they want of forecasts without the risk of bearing any consequences (Nesheim, 2021).

KPMG (2021) has questioned whether there is adequate information available for the investors that allows for proper analysis of performance, risk and return. They further criticise some problem areas related to the disclosure requirements on Growth.[8] This could suggest that the disclosure requirements on Growth are not sufficient.

In March 2021, the Norwegian Financial Supervisory Authority started an investigation of all the listings on Growth in the second half of 2020 and so far in 2021.[9] They have asked for relevant information from both Oslo Børs and the investment firms. The authority wanted a full review of everything from the conversations with the companies, the analyses from the brokerages and all self-trading done by employees in the brokerage houses (Grini, 2021). We do not yet know the results of this investigation. However, this investigation together with the letter they sent to the investment firms in October 2020, could imply that the Norwegian Financial Supervisory Authority suspects that the regulations on Growth are not sufficient.

To summarise, Growth is a marketplace that has seen a significant increase in listings and activity in recent times. This caused increased attention of the marketplace, and some critics have claimed that the fact that there are less

[8] In the report, KPMG focuses on five key problem areas regarding accounting principles, alternative performance measures (APM), ESG disclosing, information pertaining financing and the quality of the business outlook reporting.
[9] This investigation may also have something to do with the fact that there are almost only buy recommendations given on Growth by brokerage houses (Bøhren & Solheimsnes, 2021).

regulations could be a problem. In particular, the investor protection has been criticized for not being sufficient, both in terms of admission and disclosure requirements. Hence, in the next chapter, we will review the regulations that apply to Growth to better understand the degree of investor protection in the marketplace.

1.4 Regulations

1.4.1 A Comparison of the Regulation of Growth and Oslo Børs

Oslo Børs ASA has authorization to operate as a stock exchange by the Ministry of Finance, pursuant to chapter 13 in the Securities Trading Act. Oslo Børs ASA operates Oslo Børs and Euronext Expand as regulated markets and Euronext Growth as an MTF. As a stock exchange, they must establish the rules on their regulated markets in accordance with current legislation, pursuant to the Securities Trading Act section 11-1.[10] To operate Growth, Oslo Børs ASA must establish rules that comply with the Securities Trading Act, cf. section 9-26. However, they can also establish rules for their markets that go beyond what is required by law.

Oslo Børs ASA is owned by Euronext. All of Euronext's own market rules are separated into two categories – harmonised and non-harmonised. The harmonised rules apply to all the Euronext markets, and contain rules related to Euronext memberships, trading process, admissions and so on. The non-harmonised rules are local, and specific to the stock exchanges in each country.

The investor protection on Oslo Børs is considered to be higher than on Growth, as regulated markets must comply with stricter and more demanding provisions. In the following, we will thus examine the rules that apply to the main market (Oslo Børs), compared to Growth. We will consider the difference in regulations in terms of admission rules and disclosure requirements as well as the relevant rules from the Securities Trading Act, as many of the rules are only applicable to the regulated market and not to MTFs. Furthermore, we will consider the non-harmonised rules for Growth and Oslo Børs where they are of relevance. Many of the ongoing obligations are however identical due to the fact that MAR applies to MTFs and regulated markets. The purpose is to find the differences in investor protection

[10] We discuss this in more detail in chapter 1.4.2.

between the two marketplaces, and whether any of the rules that apply to Oslo Børs also could apply to Growth.

1.4.2 Admission Rules

Admission rules serve as investor protection in the sense that it determines a minimum standard for which companies that can be admitted to trade on the market. According to the Securities Trading Act section 9-26 (1) item 2, the operator of an MTF shall have:

> Transparent and duly published rules on which financial instruments can be traded under the system, and ensure access to sufficient publicly available information to enable users to make an informed investment judgement, taking into account the nature of the user and the type of financial instrument.

Considering that the Securities Trading Act only has a general provision in terms of admission rules, we review Euronext's regulations to find the specific requirements.

Shares of public limited liability companies, private limited liability companies and similar foreign companies may be admitted to trade on Growth, given that the issuer can provide sufficient information so that correct market prices are set, cf. Euronext Growth Markets Rule Book II, rule 2.1.2.1. Oslo Børs, on the other hand, is for public limited liability companies or similar foreign companies, as long as the shares are assumed to be of general interest and can be expected to be subject to regular trading, cf. Rule Book II, rule 3.1.1.[11] Further, there are several comprehensive requirements companies must fulfil to be admitted to trade on Oslo Børs. A comparison of the admission requirements for Oslo Børs and Growth is shown in the table below, where we have selected some important rules that differentiate the two marketplaces.

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[11] Cf. the Norwegian Securities Trading Administrative Regulations (FOR-2007-06-29-876) section 13-2 (1).

	Oslo Børs	Euronext Growth
Min. market value of shares	300 MNOK	No requirement
Min. share price	10 NOK	1 NOK
Spread of share ownership	25 %	15 %
Min. number of shareholders	500	30
Required financial history	3 years	2 years[12]
Accounting standard	IFRS	No requirement
Prospectus	Yes	No, but must provide an “Information Document”

Table 1: Admission rules. Source: Oslo Rule Book Part II and Euronext Growth Oslo Rule Book Part II.

An important difference is the accounting standard requirements. Companies listed on Growth can use the Norwegian Accounting Standard (NGAAP), or other accounting standard from the country of their registered business office.

Another aspect that separates the two marketplaces, is that all members of the board of directors (“board”) in companies listed on Oslo Børs, must have satisfactory expertise in respect to the rules and regulations, and at least two members should be independent from the executive management cf. Rule Book II, rule 3.1.3.5. For admission on Growth however, at least one member of the Board must have satisfactory expertise in respect to the rules and regulations, cf. Euronext Growth Markets Rule Book II, rule 2.1.4.2. Since the board's role is to monitor and give

[12] Oslo Børs can make exceptions, cf. Euronext Growth Rule book II guidance, rule 2.1.3.2.

advice, it is important that some of the board members have sufficient experience from sitting on a board, but also from the industry the company is involved in. The fact that the board has experience and knows what to monitor and report back to the shareholders, is important for both investor protection and for the company to be managed effectively. When the company has an effective board, it will potentially reduce agency conflict between parties, provide good monitoring and advice, and make decisions more effectively (Stacescu, 2021).

Getting listed on Growth also requires the use of a Growth Advisor, cf. Euronext Growth Markets Rule Book II, rule 2.1.1, which one does not have on Oslo Børs. The Growth Advisor has a role in assisting the companies with the application, and has an obligation to confirm in the application that "to the best of its abilities and judgement, and on the basis of a sufficient review of the Issuer, the Issuer satisfies all the conditions for admission to trading and the Issuer and its Shares are suitable for admission to trading on Euronext Growth Oslo", pursuant to notice 2.2 regarding rule 2.2 in Euronext Growth Markets Rule Book II. Such advisors are investment firms, cf. the Securities Trading Act, section 2-1 (1) item 6 and 7 and section 2-6 (1) item 3. The Advisors should also make sure that adequate legal and financial due diligence is performed. Thus, the investment firms are given more responsibility in the admission process on Growth than on Oslo Børs.

Furthermore, the process of getting listed on Growth has a significantly shorter timeline than on Oslo Børs. Getting listed on Oslo Børs is time-consuming especially due to the preparation of the prospectus, and takes at least 3 months. According to our interviewees, the listing process on Growth takes approximately 5-8 weeks in total. This is mainly due to the simplified admission rules.

To summarise, the admission rules on Growth are far simpler than on Oslo Børs. As opposed to Oslo Børs, there is no requirement for minimum market value and they do not have to write a prospectus or use IFRS. There are also simpler rules regarding the minimum number of shareholders, spread of share ownership and financial history. Further, there are less requirements for the board composition, and investment firms take on more of the responsibility due to their role as advisors. The simplified admission rules makes it easier for companies to trade on a stock

exchange, as they can get listed in about half of the time they would use on a listing on Oslo Børs.

1.4.3 Disclosure Requirements

The disclosure requirements are crucial in terms of investor protection, because it determines the amount of information the companies are required to make public. The purpose is to ensure that all market participants receive quick, correct and simultaneous information, which is crucial for correct pricing of the shares, cf. EMH.[13] Further, efficient pricing is important to preserve the market participants' confidence in the market. Some of the ongoing disclosure requirements from the Securities Trading Act chapter 5 have been repealed as they are replaced by the corresponding rules from MAR, which also apply to MTFs. However, the disclosure requirements that have not been replaced by MAR, do not apply to MTFs and have not been continued by Oslo Børs in their rule book for Growth, which entails that there are some differences in the disclosure requirements between Oslo Børs and Growth.

In the following, we will consider some of the differences in the disclosure requirements for regulated markets and MTFs set out by the Securities Trading Act chapter 4, 5, 6, and some of the differences in the continuing obligations for Oslo Børs and Growth set out by Euronext.

Issuer Events

Both of the non-harmonised rule books have rules that imposes the issuers to immediately disclose information about changes in the company, such as mergers, demergers, decisions about dividends and increase/decrease in share capital. Companies listed on Oslo Børs, however, also have to publicly disclose the issue of new loans, including any guarantees or collateral provided in that connection, pursuant to the Securities Trading Act section 5-8 (4). For Growth, there is no corresponding rule. KPMG (2021) reports that approximately 70 percent of the companies listed on Growth have secured long-term financing through loans from credit institutions, bond loans or convertible bonds. The lack of the requirement to disclose issuance of new loans could be problematic as the company's capital

[13] We discuss this in more detail in chapter 2.2.2.

structures could change without investors being informed. As a higher proportion of debt involves higher risk, we believe that information about the issue of new loans is of interest to investors. However, the issuance of new loans often will be considered as inside information, which the issuer is required to make public. Thus, the relevance and importance of this rule is reduced.

ESG Reporting

Public limited liability companies are obligated to explain their principles and practices for corporate governance, pursuant to the Norwegian Accounting Act section 3-3b. In addition, public limited liability companies and companies listed on a regulated market must account for their social responsibility, also called Environmental, Social and Governance (ESG), cf. section 3-3c. These statements should be included in the issuer’s annual report. ESG reporting is important to achieve benefits for the society, but it also serves as investor protection, considering that investing in sustainable business cases is becoming increasingly important for investors. This is further supported by the introduction of the EU Taxonomy, which is a system for classifying environmental sustainable activities.[14]

According to Rule Book II rule 4.4, companies listed on Oslo Børs have to provide a report on corporate governance. The company has to comply with all the codes in the Norwegian Code of Practice for Corporate Governance, or explain why they do not comply. In addition, the report must have information regarding the composition of the board, internal control and risk management associated with the financial reporting process. The fact there are no requirements to report on ESG for the issuers who do not fall under section 1-5 of the Accounting Act on Growth, might make it difficult for investors to determine whether companies in fact are green investments or not.[15]

The Obligation To Disclose Large Shareholdings and Mandatory Bid Obligation

Chapter 4 of the Securities Trading Act regulates the notification requirements, and only applies to regulated markets, cf. section 4-1. An important section of the notification requirements that has not been continued in its entirety in the Rule Book for Growth, is the obligation to disclose acquisitions of large shareholdings, right

[14] This classification system is explained in chapter 3.2.2.

[15] This is discussed in more detail in chapter 3.3.

to shares and voting rights (flaggeplikt), cf. section 4-2 in the Securities Trading Act.[16] An important consideration behind the obligation to disclose large shareholdings, is to provide the market with information on significant changes in ownership in the listed companies, which will help investors make informed investment decisions (Finanstilsynet, 2021).

The obligation to disclose large shareholdings is closely connected to the mandatory bid obligation from the Securities Trading Act chapter 6, which also does not apply to MTFs, and is relevant in connection with takeovers. The lack of these obligations on Growth will thus reduce the investors' ability to take notice when the shareholder structure is changing or a takeover is in process. Information on changes of control in the company could be key for investment decisions, and could lead to investors re-evaluating their investments.

Summary

Many of the important provisions on disclosure requirements apply to Growth in the same way as for Oslo Børs. There are however some regulations that apply only to regulated markets, such as the provisions regarding takeovers. Furthermore, companies listed on Growth are not required to report on ESG related matters, unless they can be defined as a large enterprise, cf. section 1-5 and 3-3c of the Accounting Act. Additionally, there are some differences in the non-harmonised rules with regards to issuer events, as companies on Growth do not have to disclose the issuance of new loans.

1.4.4 The Degree of Investor Protection on Growth

The admission rules on Growth, is where the differences between the two marketplaces appear more clearly. These are rules that were drafted with the intent to ease the process of raising capital quickly and efficiently for SMEs, and it is also where the difference between Growth and Oslo Børs are the most significant. As a result, Growth allows companies to be listed within approximately 5-8 weeks in total.

[16] However, there are requirements for the issuer to publish when a person reaches, exceeds or falls below an ownership threshold of 50 percent or 90 percent of the share capital. This is further discussed in chapter 3.1.1.

However, we consider the admission rules on Growth to serve as an important advantage, as they lower the threshold for smaller companies and start-ups to get listed on a stock exchange. As a result, companies get easier access to capital, which is important in order to grow and create value. The simplified admission rules are thus important in order to preserve the purpose of the marketplace, which is mainly to make it easier for SMEs to raise capital efficiently.

Although the degree of investor protection seems higher in terms of the disclosure requirements compared to the admission requirements, we still find it relevant to further analyse the differences in disclosure requirements for Growth and Oslo Børs.

Due to the fact that there are few provisions that provide investor protection in takeover situations and that the shareholder structure of the issuers on Growth is less accessible, we will analyse the obligation to disclose large shareholdings.

We further consider the requirement of using IFRS as highly relevant investor protection, as the requirement of using IFRS is not only important for admission, but has a crucial role in the periodic disclosure requirements. The accounting standard used should be of importance in terms of the quality of the financial statements the issuers are required to make public. Hence, we find the requirement to use IFRS relevant to analyse further.

Moreover, we consider ESG reporting as an important investor protection as ESG is becoming increasingly relevant. The fact that companies listed on Growth reports less in ESG, appears to be a paradox as increased focus on ESG seemed to be one of the reasons why Growth had the dramatic increase of listings in 2020. For this reason, we will discuss whether there is a need for a requirement to report on ESG for the issuers on Growth.

To summarise, our thesis will further review the disclosure requirements in terms of the obligation to disclose large shareholdings, accounting standard requirements and ESG reporting. Our objective is to research whether the balancing between investor protection and efficient markets is optimal, or if the investor protection should have more weight. We have thus chosen to focus on these three sets of rules

due to their significant role as investor protection, and as they appear as relevant for the types of companies that are listed on Growth, and not only Oslo Børs.

2 Methodology and Economic Theory

2.1 Methodology

To be able to find our research question, we started with reading reports and doing in-depth interviews with different market players. In order to determine what kind of balance is currently set out in the marketplace, we analysed the regulations that apply to Growth and compared them to the regulations that apply to Oslo Børs. Hence, our thesis is mainly based on a legal research method. We base our analysis on relevant Norwegian law, mainly the Norwegian Securities Trading Act and Accounting Act. However, we use Euronext's own rules for their marketplaces where it is necessary. When discussing whether the current regulations are optimal, we have set different opinions against each other and used economic theory to substantiate the different views.

We used interviews mainly to identify the status and perceptions of the marketplace. The interviewees we chose are knowledgeable and influential within their fields. We interviewed personnel from law firms, investment banks and companies listed on Growth in order to gain in-depth understanding of the marketplace, and the role of the different market players. The interviews were semi-structured and flexible, where we had a set of questions we wished for the interviewee to answer, but questions not prepared in advance were also asked as we picked up things during the interview. The interview we refer to in the thesis is an interview with Øivind Amundsen, the CEO and President of Oslo Børs. The reason is that this interview gave us a great deal of information, which we considered as facts due to the credibility that comes with such a position on Oslo Børs, as we consider this as a very legitimate institution. Even so, we did take into account that Euronext and Oslo Børs are establishments meant to maximize profits, and that this could influence the ability to be objective. Nonetheless, the interview provided us with a valuable perspective from Euronext's point of view, which was important input as a counterargument to the many who have criticised the marketplace.

A fundamental part of our method has been to look at various reports written about Growth in the time we have been working on this thesis. The reports have been important as there is a limited amount of literature on the subject, as the marketplace is relatively new and has only recently seen an increase of interest. We have used information from the reports as a starting point for further analysis. The reports we have focused on have been written by reputable people in the industry, but we have reviewed the information with a critical eye and examined other sources regardless.

Specific methodical issues when using a legal method in our analysis, is for instance the relation between Norwegian law and Euronext's rules. We distinguish between national legislation and Euronext's rules, because they have different economic considerations. The Norwegian Securities Trading Act sets out the purpose of the law in section 1-1, and that is "to facilitate safe, orderly and efficient trading in financial instruments and to ensure investor protection." Euronext, on the other hand, is a privately owned company who has commercial interests, as opposed to the legislators. However, many of Euronext's non-harmonised rules are based on the Norwegian Securities Trading Act, although some rules go beyond what is required by law. It is the admission rules in particular where Euronext's rules are important, as these are rules not adapted from Norwegian law. Mostly we use the Euronext rules to compare with the Securities Trading Act. This is because not all the provisions of the Securities Trading Act apply to MTFs. The provisions we analyse in chapter 3 of the thesis apply to the regulated market, but not MTFs. These are provisions that are intended to increase investor protection, and therefore we investigate whether some of the provisions should apply to Growth. If there should be an increased level of investor protection, i.e. more regulations on Growth, it could however be challenging to determine whether the changes should be implemented through Euronext's rules or through national legislation.[17]

It is provisions from the Norwegian Securities Trading Act and Accounting Act that apply to the regulated markets that have the greatest importance for our thesis. Many of the rules we analyse are implemented from EU directives and regulations. The provisions we use from the directives have been implemented in Norwegian law through transformation, which means that they have been rewritten into

[17] This is discussed in chapter 3.1.2.

independent Norwegian legal rules with the condition that they meet the requirements of the directive. The regulations we use, on the other hand, have been implemented in their entirety either in law or administrative regulations. For instance, the IFRS Regulation has been implemented in Norwegian law through administrative regulations, cf. section 3-9 of the Norwegian Accounting Act. We have used the directives and regulations to better understand the purposes of the provisions we analyse. The purposes will have a significant weight when discussing whether the regulations should also apply to Growth. If the considerations and purposes of a regulation that applies to regulated markets also seem relevant to MTFs, this could indicate that the regulation should apply to Growth.

Economic theories are often used to justify regulations. To understand the purposes of regulations we analyse, which is a central part of our analysis, one must also understand the economic considerations. When we discuss whether there should be an increased investor protection on Growth and whether this can be justified, we therefore use economic theories to support our arguments, and to get a deeper understanding of the different considerations of the regulations we analyse.[18]

Moreover, we have used the G20 / OECD Principles of Corporate Governance to support our analysis of the obligation to disclose large shareholdings on Growth.[19] OECD does not have a supranational authority. The principles are recommendations, and thus voluntary for Norway to follow (Regjeringen, 2012). However, since the principle of disclosure of large shareholdings has been introduced in EU law, through the Transparency Directive, we believe that the principle should be weighted heavily. Thus, we have used the principle to substantiate our arguments for why the disclosure of large shareholdings provisions could apply to Growth.

[18] The theories used are described in chapter 2.2.

[19] OECD is an international organization for economic cooperation and development, which analyzes and discusses current economic and social issues. It is also an important international forum where Norway enters into dialogue with the other member states and provides input to the co-operation (Regjeringen, 2012).

2.2 Economic Theory

2.2.1 Introduction

The regulation of capital markets has important economic considerations, which we often review in this thesis. In this section, we will therefore describe the economic theories we use to both support our arguments and to understand the purposes of the regulations we analyse.

The main objectives of capital market regulations in general are financial stability[20] and efficient and well-functioning markets. These objectives have a socio-economic perspective, in that there can be major societal consequences where there are problems in the financial sector. To achieve these goals, there must be confidence in the market. When there is confidence in the market, it is possible to achieve societal benefits from the financial markets, by individuals and companies participating in the market. Hence, the protection of investors is important in capital market law, and supports the general purposes of the regulation of capital markets.

2.2.2 Market Failure

In economic theory, it is often stipulated that the markets themselves will provide an efficient allocation of resources without government intervention, as long as the basic legal framework is maintained. Market failure, on the other hand, is when market forces do not provide the optimal resource allocation in the market, which can threaten the confidence the market players have in the market. When participants do not have confidence in the market, they may want to withdraw their money and place it in another market or ask for a higher risk premium, this in turn will lead to greater economic consequences. There is extensive economic literature and research on different types of market failures within financial markets (NOU 2018:5).[21] In this section, we will focus on information asymmetry and externalities. These types of market failures could justify the need for increased investor protection on Growth.

Information asymmetry in economic theory refers to a situation where one party of a transaction has better information than the other. Usually the seller has more

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[20] Financial stability means that the financial system is robust to disruptions, so that it is able to mediate financing, make payments and redistribute risk in an efficient manner (Norges Bank, 2020).
[21] See also Myklebust (2011) p. 43.

information than the buyer. Information asymmetry can cause market failure or at least influence market efficiency significantly. A well-known theory in this context is the theory of the market for "lemons", introduced by George Akerlof (1970). Akerlof chose the market for used cars as an example of the problem of quality uncertainty. If the quality of the product is uncertain, the buyer cannot distinguish between good or bad products by looking at the prices. As buyers are aware that there is uncertainty about the quality of the cars, i.e. that there is information asymmetry, they will pay less to secure themselves against the seller. The reduced willingness to pay will lead to sellers of good cars being squeezed out of the market, as they do not get a fair price for the car, and the market will be dominated by bad cars. When the market is characterized by poor selection, it can lead to buyers and sellers withdrawing from the market, which leads to reduced liquidity (Akerlof, 1970). The transfer value for the financial market is that issuers of financial instruments have more information than investors. Information asymmetry is a type of market failure that can justify regulations, and disclosure requirements are considered to have a positive impact on information asymmetry.

Another form of market failure is externalities. Externalities are positive or negative effects of someone's decision or course of action that has no economic effects for him or her. Consequently, the one concerned will have no economic incentives to consider the effects in their decisions. A classic example of negative externalities is pollution that is not related to any costs for the polluter (NOU 2018:17, p. 224). Externalities in financial markets lead to market failure because the prices of the securities do not reflect the true costs or benefits of the underlying value. The government may try to reduce the externalities by for example imposing taxes on negative externalities or subsidizing positive externalities. Hence, externalities can justify regulations.

2.2.3 Efficient Market Hypothesis and Behavioural Finance

The Efficient Market Hypothesis (EMH) was proposed by Eugene Fama in 1970, and has gained wide influence regarding the determination of the effects of information. The main assertion of the theory is that a capital market is efficient if the stock prices immediately and fully reflect the available and relevant information. The primary aim of the theory is to establish the actual degree of information efficiency in the markets in order to be able to determine the amount

of information already reflected in the prices. If, for instance, stock prices reflect all the existing information, trading only on the existing information will yield no abnormal returns (Fama, 1970). This theory is relevant for our analysis of the disclosure requirements on Growth, because the disclosure requirements decide what information issuers are required to make public. Hence, to a great extent they determine the level of information in the market.

The underlying rationale for the EMH is the presence of competition. The degree of competition, and thus the accuracy of the hypothesis, will depend on the number of investors who possess information. With information that is available to all investors and easily interpretable, and the impact of the information can be easily ascertained, then all investors can determine the effect of the information on the firm's value. In this scenario the EMH holds very well. However, information could be difficult to interpret. For instance, it could take a great deal of legal and accounting expertise to understand all the consequences of a business transaction. Even though the information is public, it might be difficult to determine how the transaction will affect the firm's future cash flow. In this scenario, when information is in the hands of a small number of investors, those are able to profit by trading on the information. The EMH will not hold in the strict sense. However, as the informed investors trade, prices will tend to move so that they over time will reflect the information as well (Berk & DeMarzo, 2020, p. 339-340).

The stipulations made by this theory only holds under very restrictive conditions of market equilibrium as it requires that the price adjustments process takes place immediately, that there are zero transaction costs and that the market participants have homogeneous expectations and behave rationally (Veil, 2017, p. 267).

Furthermore, the legislation in the financial market area aims to influence the market participants' behaviour, and an important premise of capital market law is that investors are assumed to act rationally, i.e. that the EMH holds and that investors seek to maximise their own economic benefit. Rationality therefore entails that individuals will always consider different alternatives utility, and choose the alternative with the highest expected utility. The European model of investor protection is based on the concept of a reasonable investor who makes rational decisions in the capital markets.

However, the assumption of rationality does not fully coincide with reality. Behavioural finance is a contrast to the EMH, because it emphasizes the fact that investors have bounded rationality, biases and are affected by emotions, which prevents them from making optimal investment decisions.

People often have to make decisions quickly, and do not have the time to evaluate all possible alternatives and their respective outcomes. The prospect theory is a well-known theory within this subject, and was developed by Kahneman and Tversky in 1979. It assumes that a decision will always depart from a certain reference point. Outcomes lower than this reference point will be considered as losses and higher outcomes as gains (Veil, 2017, p. 96).

Behavioural finance is thus an important consideration when discussing whether increased regulations on Growth in fact will lead to increased investor protection and market efficiency. One could argue that more information available in the market will not make it more efficient, because investors are not able to act rationally, which is a prerequisite for the EMH.

3 Does Growth Need Higher Investor Protection?

3.1 Introduction

In this chapter of the thesis we will analyse three different sets of rules - the obligation to disclose large shareholdings, accounting standard requirements and ESG reporting. We review the regulations that apply to the regulated markets and MTFs, as well as the legislative purpose. We will investigate whether such rules on Growth will lead to increased investor protection without reducing efficiency in the marketplace.

3.2 The Disclosure of Acquisitions of Large Shareholdings

3.2.1 Regulations on Regulated Markets and MTFs

The disclosure of acquisitions of large shareholdings, rights to shares and voting rights (major holdings disclosure), hereby referred to as the obligation to disclose

large shareholdings, ensures that the market is provided with information on significant changes in ownership in listed companies. The provision only applies to regulated markets, and when the issuer has Norway as their home state, cf. the Securities Trading Act section 4-1.[22] Companies that do not have Norway as their home state cannot be subject to stricter rules than what is stated in the directive, or what is the regulation of the issuer's own home state, cf. the Transparency Directive (2004), Article 3 (2) and Securities Trading Act section 4-1 third sentence.

Section 4-2 states that when shares and/or rights to shares reaches, exceeds or falls below given thresholds as a result of acquisition, disposal or other circumstances, the party concerned shall immediately notify the issuer and Oslo Børs. The thresholds are 5 percent, 10 percent, 15 percent, 20 percent, 25 percent, ⅓, 50 percent, ⅔ or 90 percent of the share capital or corresponding proportion of the votes. According to subsection 6, the notification must be given immediately after the agreement on acquisition or disposal has been entered into force. There is also a rule concerning consolidation of parties in accordance with this provision in subsection 5, with a definition of certain parties that are considered equivalent to the acquirer. The requirement for the content of the notification is stipulated in the administrative regulation. Violation of the obligation to report large shareholdings could also result in penalties.[23]

The disclosure of large shareholdings is intended as an implementation of the Transparency Directive (2004/109/EC), Article 9 to 15. The Transparency Directive of 2004 only provides a minimum harmonisation, which means that member states can introduce stricter rules than what is set out by the directive. In Norway, for instance, we have included a threshold of 90 percent which is not required according to the Transparency Directive (2004) Article 9. This is mainly

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[22] According to the preparative works for the previous Norwegian Securities Trading Act of 1997 (NOU 1996: 2, 7.1.1 (3)), the disclosure of large shareholdings provision in the Securities Trading Act has emerged from the Norwegian Companies Act section 3-9 with certain amendments from the EEA Directive, Rdir 88/627. The reason for the establishment of the disclosure of large shareholders provision was that "there had been a number of cases where individuals or groups had made, or tried and made, acquisition of major shareholdings in Norwegian companies", cf. section 7.1.1 (4).

[23] The Norwegian Financial Supervisory Authority may impose a violation fee in the event of a violation of the disclosure of large shareholdings, cf. Securities Trading Act section 21-3 (1). Participation can also trigger a violation fee, cf. section 21-13. One who with intention or ordinary negligence violates the obligation, can be punished with fines or prison up to one year, cf. section 21-15 (4) item 3. The violation fees the Norwegian Financial Supervisory Authority has imposed due to violation of the obligation to disclose large shareholdings between 2018 and 2020, has been in the size of 75 000 to 175 000 NOK (Finanstilsynet, 2020b).

due to relevant thresholds in Norwegian company law. Due to large differences in regulation in the various member states, which were considered an obstacle to integration between member states, the EU came with an amending directive of the Transparency Directive (2013/50/EU) in 2013, cf. recital 12 of the preamble. This amending directive has not entered into force in Norway as of today.[24] The change provides some fully harmonized rules, so that the possibility of giving stricter rules in each individual member state is narrowed. For instance, the obligation to disclose large shareholdings was amended to apply to a larger number of financial instruments, for the purpose of ensuring publicity regarding ownership. A narrow definition of the financial instruments that the provision covers, could lead to investors shying away from it by creating new instruments that are not included. The fact that the definition from the Transparency Directive is wider, could help to reduce this problem. However, it is still possible for member states to set different levels of thresholds under the amending directive, cf. recital 12 of the preamble. The reason is that the different member states have implemented different types of thresholds in local company law.

The most important purpose that justifies the obligation to disclose large shareholdings, along with the many other disclosure requirements, is to increase the level of information in the financial markets. Information related to changes in the shareholder structure in a company should help investors make well founded investment decisions (Ot.prp.nr.34 (2006-2007), p. 308).[25] Changes in ownership can influence the prices, and it is therefore important to ensure that market players receive simultaneous and equal information (NOU 2005:13, p.19). This is justified by the fact that major changes in ownership can say a lot about the owners' assessment of the company's future prospects and financial position. The notifications should also increase the overall transparency in the market when it comes to major capital movements. Furthermore, the notifications can be an aid in market surveillance cases in the sense that the actual supervision of issuers is improved (Ot.prp.nr.34 (2006-2007), p. 310).

[24] Prop. 66 LS (2020-2021) suggests implementing parts of the Transparency Directive (2013/50/EU). The government did not submit proposals for obligation to disclose large shareholdings in listed companies and rules on sanctions. This will come in a later proposition.

[25] See also., NOU 2006:3 p. 208, NOU 2016:2, Myklebust, 2011, p. 319-320.

The purpose of the Transparency Directive 2013 is also relevant to consider, even though it has not yet entered into force in Norway. The reason is that it will most likely become part of Norwegian law, and in accordance with the presumption principle, it will be correct to consider this source of law.[26] Recital 2 of the preamble states that the directive was created due to a need for improving the previous directive from 2004, and that there was a need to "provide for the simplification of certain issuers' obligations with a view to making regulated markets more attractive to small and medium-sized issuers raising capital in the Union." Due to the fact that there are many SMEs listed on Growth, one might presume that such a provision should also apply to Growth, but perhaps not as strictly as the one that applies for regulated markets. It is further stated in recital 12 of the preamble, that a harmonised regime for notification of large shareholdings should help to improve legal certainty, enhance transparency and reduce the administrative burden for cross-border investors. Furthermore, the purpose behind the 2004 directive will continue to apply, which "aims to ensure transparency of information for investors through a regular flow of disclosure of periodic and on-going regulated information and the dissemination of such information to the public" (ESMA, n.d.).

Although the obligation to disclose large shareholdings in the Securities Trading Act does not apply for Growth, Euronext has included a similar provision in the Euronext Growth Rule Book Part I, rule 4.3. This rule requires that the *issuer* shall publish when a person alone, or together with others, reaches, exceeds or falls below an ownership threshold of 50 percent or 90 percent of the share capital or voting rights within five days after becoming aware of the circumstances. According to this, it is the company that is responsible for reporting and not the acquirers as in the Securities Trading Act section 4-2. This provision does not provide nearly the same degree of investor protection as the Securities Trading Act section 4-2, due to the fact that it could take significantly longer time for the investors to become aware of changes in the ownership, which in turn can create uncertainty in the market.

Considering that the obligation to disclose large shareholdings is not applicable to Growth, we will consider other relevant regulations to determine whether there are other regulations that could provide similar investor protection.

[26] The presumption principle (presumpsjonsprinsippet) is a principle of interpretation, and entails that Norwegian law is presumed to be in accordance with international law.

Related Regulations

In Norway there are two pillars of regulations regarding disclosure of large shareholdings. The first pillar of regulation requires companies to disclose their major shareholders. According to the Norwegian Accounting Act section 7-26, public and private limited liability companies shall disclose the company's 20 largest shareholders and their share, in the notes of their financial statements, but shareholders who own less than 1 percent may be omitted. Companies that are categorized as small enterprises under the Norwegian Accounting Act, have less comprehensive requirements. Small enterprises only need to disclose the 10 largest shareholders and shareholders that own less than 5 percent can be omitted, cf. section 7-42. The second pillar of regulation requires shareholders to disclose their shareholdings, which is the one we discuss in this chapter. Since the duty to provide information in the first pillar will only be updated when the company submits financial reports that occur at the earliest every quarter and at the latest within a year, this duty alone will not contribute to effective investor protection. As the shareholder structure in a company can change rapidly, the duty in the second pillar is more important to maintain effective investor protection.

All private and public limited liability companies must have a shareholder register, according to the Norwegian Private Limited Liability Companies Act section 4-5 and the Norwegian Public Limited Liability Companies Act section 4-4. The shareholder register shall be accessible to everyone, cf. Private Limited Liability Companies Act section 4-6 and Public Limited Liability Companies Act section 4-5. Furthermore, according to the Private Limited Liability Companies Act section 4-7, the company is obligated to enter new owners in the shareholder register without delay when a new owner has notified and justified their acquisition of a share. According to the Private Limited Liability Companies Act section 4-12, the acquirer of a share shall immediately notify the company of the acquisition. Meanwhile, in Public Limited Liability Companies Act section 4-7 it is stated that previous owners must immediately send notification of change of ownership to VPS.

However, the shareholder register is not easily accessible to the public as one would have to contact the company to get the information, and one would have to do this

from time to time to notice any changes in the shareholder structure since there are no notification requirements (Regjeringen, 2014). To keep track of shareholder structure this way seems quite burdensome for investors. In addition, the obligation to disclose large shareholdings provides far more precise and fast information than the rules on keeping a list of shareholders. On the contrary, there are lots of other types of company-specific information that are available to the public but not necessarily easy for the public to access, and one could argue that it is the investor's job to research and consider the information he or she finds relevant.

Moreover, any person who owns shares trading at Oslo Børs, has an additional form of protection in takeover situations. Pursuant to the Securities Trading Act section 6-1 (1), any person who becomes the owner of shares representing more than ⅓ of the voting rights of a Norwegian company where the shares are quoted on a Norwegian *regulated* market, is obligated to make a bid for the purchase of the remaining shares. Chapter 6 of the Securities Trading Act, on the mandatory bid obligation and the voluntary bid in connection with takeovers, is thus not applicable to MTFs.

The mandatory bid obligation is primarily meant as a protection for the other shareholders in the company, which in practice often will be the minority shareholders. The aim of the regulations in chapter 6 is therefore that the minority shareholders are protected in the case of a change of control in the company, in the way that they through the bid will have the opportunity to exit (Tjaum, 2014). The pricing of the bid is also an important protection, as section 6-10 (4) states that "the bid price shall be at least as high as the highest payment the offeror has made or agreed in the period six months prior to the point at which the mandatory bid obligation was triggered." The bid obligation can thus be quite costly and burdensome for the person who is required to make a bid. Consequently, it is easier to recognize why the mandatory bid obligation does not apply to Growth.

3.2.2 Should There Be Stricter Requirements to Disclose Large Shareholdings on Growth?

The obligation to disclose large shareholdings is part of the disclosure requirements, and is necessary to ensure that market participants do not act in a way that undermines market confidence, which is crucial to create an orderly and efficient

market. Hence, the disclosure requirements function as an important investor protection. Among the disclosure requirements only the provisions on disclosure of inside information, insider trading, market abuse and the primary investor's reporting obligation applies to Growth.

It can however be discussed whether the legislators intentionally have let the regulation apply only to regulated markets. According to the preparative works of the Norwegian Securities Trading Act of 1997 (NOU 1996: 2, 7.3.1.1), it was the committee's view that the obligation to disclose large shareholdings should also apply to other kinds of regulated markets, not only a stock exchange. Further, it is stated that if such regulated markets are established in Norway, it may be stipulated in the administrative regulations that the obligation to disclose large shareholdings shall apply correspondingly to shares traded in these markets. These are however statements from the preparative works for the previous Securities Trading Act, and it is not clear what is meant by regulated markets other than stock exchanges. The relevance is also limited as the concept of MTFs by MiFID were not yet established at the time.

An important reason for why investors should receive information on changes in the shareholder structure, is that the information is crucial in terms of how a company is operated. The Norwegian Public and Private Limited Liability Companies Acts have several different majority provisions in section 5-17 to 5-20. For instance, pursuant to section 5-18 of the Companies Acts, a ⅔ majority is required to amend the articles of association. If a shareholder or several shareholders together own more than ⅓ of the voting rights, they have a negative majority, which can prevent majority shareholders from adopting amendments to the articles of association that may adversely affect the minority shareholders. As a result, the shareholder structure is relevant in terms of what kind of decisions are being made, and how the company is operated. This will in turn impact the expected value of the company. Some investors might also base their investment decisions on what kind of shareholders that already have larger ownerships in a company. If

so-called cornerstone investors[27] or stock market gurus own a large proportion of shares in a company, these shares can become more attractive for other investors.

Furthermore, the obligation to disclose large shareholdings is often the first sign that a takeover is in process, since it is the first requirement that arises in the process. For instance, the mandatory bid obligation applies when a shareholder owns more than ⅓ of the share capital and voting rights. The obligation to disclose large shareholdings already applies when a shareholder exceeds, falls under or reaches the threshold of 5 percent. Therefore, the obligation to disclose large shareholdings is an important part of the investor protection in takeover situations.

It should be noted that Growth has received criticism for weak protection of smaller investors,[28] but this is perhaps setting a misleading image. The majority of investors on Growth are professionals.[29] Informed professional investors acquire information extremely fast and act on it so quickly that it will be reflected in the price immediately, hence that the market is efficient, cf. EMH. As a result, publicly available information will often be reflected in the price before the smaller unprofessional investors have managed to acquire it. Thus, the smaller investors are sufficiently protected by the fact that the publicly available information is reflected in the share prices. It is therefore the professional investors who need information and are protected by the disclosure requirements, and it would be wrong to impose an information obligation on issuers if the main consideration behind it is to protect the small investors.

An important purpose of the obligation to disclose large shareholdings, is also that it will help to reduce information asymmetry, which in turn can help increase market confidence and prevent market failure. If the shareholder structure is in fact important for investors, it should be reflected in the prices. However, with the lack of an obligation to disclose large shareholdings, the prices will not be adjusted

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[27] Cornerstone investors are investors with large holdings in a company. These investors have in fact been criticized for withdrawing from companies within days after Growth listings. These investors are often highly profiled and are likely to attract other smaller investors.

[28] This is discussed in chapter 1.3.

[29] The largest proportion of investors are institutional, hence they are the ones that account for most of the trading. According to the President and CEO of Oslo Børs, Øivind Amundsen, private investors, or investors that are not institutional, only account for approximately 5 percent of the ownership at Oslo Børs in total. As a result, it is the institutional investors that mainly determine the pricing of the shares.

immediately, like they would on Oslo Børs. For the capital markets to function effectively as a source of capital, market participants must also have confidence that prices reflect the real market value of the securities, i.e. that the market is efficient according to the EMH. An increased level of information in the market also contributes to preventing insider trading, which can be damaging for the market confidence.

Although we argue that the obligation to disclose large shareholdings could increase market efficiency, one could also argue the opposite. Problems related to bounded rationality according to behavioural finance and information abundance can prevent investors from processing all the information available in the market and, consequently, that they do not make optimal investment decisions. Hence, it is possible that disclosure of large shareholdings would not make the market more efficient.

The G20/OECD Principles of Corporate Governance states that one of the basic rights of investors is to receive information about major share ownership.[30] The EU has implemented the OECD recommendation so that disclosure should include major share ownership and voting rights in its regulations through the Transparency Directive. Since this obligation is a basic right for an investor according to this principle, one could anticipate that this obligation also should apply to Growth.

Considering that there are only requirements for the issuers to disclose acquisitions of large shareholdings at 50 percent and 90 percent on Growth, and that the issuers only need to disclose financial reports annually and semi-annually, investors are potentially left in the dark for longer periods of time regarding the shareholder structure in the companies. This also applies even though many of the companies report quarterly instead of semi-annually. Since the percentages the issuers are required to disclose of large shareholdings are so high, it is likely that in cases with takeovers, the shareholders will not be notified of the matter before the takeover process is already inevitable. The disadvantages for the other investors are

[30] These principles are an international benchmark for policy makers, investors, corporations and other stakeholders worldwide. The purpose of the OECD principles are to help policymakers evaluate and improve the legal, regulatory, and institutional framework for corporate governance, with a view to support economic efficiency, sustainable growth and financial stability (OECD, 2015). Thus, these are recommendations that the member states should follow.

especially evident when so-called cornerstone investors withdraw from companies within a short amount of time after the listing.[31]

One aspect that could assist investors as a notification and protection in takeover situations on Growth, is the mandatory bid obligation, cf. the Securities Trading Act section 6-1. However, this obligation does not apply to MTFs. As a consequence, there are no provisions in the Securities Trading Act that directly aims at the protection of investors in takeover situations. Even though the bid obligation could be quite burdensome for the investor, it is still an important protection of the minority shareholder because it forces the shareholder that gains control in the company to provide an exit opportunity for the other shareholders. In addition, the price of the bid secures the shareholders' benefit from the premium that the person obligated to make the bid had to pay in order to gain the control. With the lack of the mandatory bid obligations and the high thresholds for the obligation to disclose large shareholdings, investors must keep close track of the company if they wish to exit in the case of a change of control.

The obligation to disclose large shareholdings that apply to the regulated market, lays a responsibility on the *investor*, and not the issuer, unlike many of the other disclosure requirements. The disclosure requirements that lays a responsibility on the issuer, such as disclosure of inside information, creates a burden for the management and the employees. The obligation to disclose the acquisition of large shareholdings therefore stands out because it creates a burden for the investors, and violations of the obligation can result in penalties.

On the one hand, the obligation to disclose large shareholdings seems rather easy to comply with, as it requires that the investor sends a notification to the issuer and Oslo Børs. This appears as a less burdensome obligation, as opposed to the mandatory bid obligation, which potentially can be very costly for the person who is obligated to make a bid.

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[31] An example is when the cornerstone investor, Øystein Stray Spetalen, sold down shortly after the listing of Proximar Seafood. The price of the share fell after it became known that Spetalen was no longer one of the largest shareholders in the company (Kvale & Bøhren, 2021).

However, the costs of the obligation to disclose large shareholdings for the investors is that their ownership positions are made public, which entails that they are not able to do stealth acquisitions. Investment strategies can be negatively affected by the fact that the ownership structure and the changes are made publicly known. More comprehensive regulations will thus lead to increased costs for the investors on Growth, which can further lead to more investors withdrawing from the marketplace, which in turn leads to the companies' opportunity to raise capital being reduced. Another risk that comes with increased disclosure requirements, is that the marketplace can become too similar to Oslo Børs, and therefore lose its purpose.

We reviewed the possibility that Oslo Børs might impose an obligation to disclose large shareholdings for the investors on Growth. In an e-mail correspondence with Oslo Børs April 22, 2021, they point out that even though Oslo Børs has authority to operate Growth, there are restrictions for what they can regulate. They have a direct relation to the issuers and their members (the brokerages), and for these market players, Oslo Børs sets rules and enforces them. When it comes to the investors however, Oslo Børs does not have a direct relationship with them and thus it becomes difficult or nearly impossible to set rules for this group. In order to have effective rules towards the investors, Oslo Børs believes it must be determined by law. This is why the current Euronext regulations impose an obligation on the issuers, and not the investors, to disclose large shareholdings at 50 percent and 90 percent. This entails that if there is a need for an obligation for investors to disclose large shareholdings on Growth, it seems that it must be determined by law and not Oslo Børs.

Due to the fact that the current requirements on Growth entails that the issuers disclose acquisitions of large shareholdings at 50 percent and 90 percent, it could however be possible for Oslo Børs to increase the number of thresholds. On the Swedish MTF called Spotlight, they have decided to integrate an obligation to disclose large shareholdings cf. Spotlight's regulations section 4.20.[32] According to this section, it is the issuer that has an obligation to report the change in ownership. Contrary to the rule on Growth, Spotlight has several thresholds that must be

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[32] In Sweden there are two regulated markets, Nasdaq Stockholm AB and Nordic Growth Market NGM AB, and three MTF, Nasdaq First North, NMG Nordic MTF and Spotlight (Aktietorget until 2018) (Finansinspektionen, 2016).

followed. It is not uncommon for Norway to follow Sweden or other Nordic countries in terms of regulations. Spotlight is also a larger marketplace than Growth, as they have approximately 160 listed companies.[33] This could imply that their regulations in terms of obligation to report the change in ownership is effective. However, if the issuers on Growth have an increased number of thresholds to comply, it also entails increased costs, which in turn could drive companies away from the marketplace. It is likely that such an obligation would require much work for the issuers, and that this is the reason why the disclosure of large shareholdings from the Securities Trading Act lays the burden on the investors and not the issuers.

To summarise, a similar rule such as the obligation to disclose large shareholdings on the regulated markets, will increase the level of information in the marketplace, which will probably increase market efficiency and reduce the risk of market failure. The current investor protection in takeover situations is considered quite low, due to the fact that the mandatory bid obligation also does not apply to MTFs. However, the clear disadvantage is that it will increase the costs for the investors or issuers. Furthermore, increased obligations for the investors can lead to Growth becoming too similar to the regulated market, and thus lose some of its purpose.

Whether the balancing between the investor protection and the companies need for raising capital quickly and efficiently should be different in terms of the obligation to disclose large shareholding on Growth, our conclusion is that the rules should be stricter. We believe that the obligation to disclose large shareholdings on Growth should fall on investors instead of issuers, in order to prevent companies from not wanting to get listed and thus reducing market efficiency. Furthermore, we also believe that the threshold should be similar to those that apply to the regulated markets. The reason is that it will help to create more predictability, in addition to the fact that many of the thresholds are in accordance with majority provisions in the Norwegian Public and Private Limited Liability Companies Acts. However, it could be possible to implement fewer thresholds, to make sure that one maintains some benefits for the investors by continuing some differences between Growth and Oslo Børs.

[33] This is according to Spotlight's website (https://spotlightstockmarket.com/) as of June 22, 2021.

3.3 Accounting Standard Requirements

3.3.1 Regulations on Regulated Markets and MTFs

The regulations on the periodic disclosure requirements in the Securities Trading Act mainly consists of the issuer's obligation to prepare and publicly disclose annual and semi-annual financial reports, as well as the issuer's obligation to make public any change in share capital, rights, loans, etc., cf. sections 5-5, 5-6 and 5-8. Moreover, what the financial reports must consist of, are outlined in the Norwegian Accounting Act. The periodic disclosure requirements apply to issuers whose home state is Norway and whose securities is traded on a regulated marked, cf. section 5-4 (1).

An accounting standard is a set of principles and guidelines that sets the basis of how transactions and different events should be measured, recognized, presented and disclosed in companies' financial statements. Companies listed on a regulated market shall prepare their consolidated accounts in conformity with International Financial Reporting Standards (IFRS),[34] according to the Norwegian Accounting Act section 3-9. This rule implements the IFRS Regulation (Regulation (EC) 1606/2002) Article 4. According to the Norwegian Accounting Act section 3-9 (3), all companies listed on a regulated market, who do not have consolidated accounting obligations under IFRS, must prepare their financial statements in accordance with IFRS. Those required to keep accounts and are covered by the IFRS Regulation Article 4 may choose to prepare their annual accounts in accordance with IFRS, cf. the Norwegian Accounting Act section 3-9 (3) first sentence. The same applies to those required to keep accounts but who fall out of the scope of the IFRS Regulation Article 4. In addition, they may also choose to prepare the consolidated accounts in accordance with IFRS, cf. the Norwegian Accounting Act section 3-9 (4).

Norwegian companies that do not fall under the requirement for full IFRS, can also use a simplified IFRS, which is authorized in the administrative regulations of the Norwegian Accounting Act, cf. the Norwegian Accounting Act section 3-9 (5).[35] This is a special Norwegian version of IFRS. Simplified IFRS is based on the

[34] IFRS is a comprehensive set of accounting rules of over 2500 pages that is used worldwide.
[35] Administrative regulation on simplified application of international accounting standards (FOR-2008-01-21-57).

provisions of IFRS, but provides limited deviations from the provisions on recognition and measurement, and much simpler note requirements. This regulation is especially useful for many parent companies and subsidiaries in listed groups, but also companies that have plans of getting listed on a stock exchange have often used these rules (Avlesen-Østli et. al., 2018, p. 1200).

The accounting law committee proposed a change in the Norwegian Accounting Act in 2016 (NOU 2016:11), suggesting that the Norwegian accounting standards, NGAAP, should be replaced by IFRS for Small and Medium-Sized Entities (IFRS for SMEs). However, the ministry gave a proposition to the Parliament in December 2020 (Prop. 66 LS (2020-2021)), where it is stated that they "have not found grounds to propose major changes to the Accounting Act in line with the committee's proposal. In the Ministry's view, such changes should only be implemented if it can be demonstrated that the benefit to the users of the accounts is greater than the additional costs for those required to keep accounts." This serves as evidence that the benefits for the users does not outweigh the costs for those required to keep accounts.

In order for companies to be admitted to trading on Oslo Børs, they must disclose financial statements prepared in accordance with IFRS, or other accounting standards that are permitted in accordance with Norwegian law, according to Oslo Børs Rule Book II rule 3.1.2.4. For foreign companies, the financial statements must be prepared according to the accounting standards that apply in the home state of the issuer.

To gain an understanding of whether IFRS should also apply to Growth, we will move on to review the purposes of the regulations regarding accounting standard requirements.

Firstly, the primary aim of the periodic disclosure is to inform investors, which leads to increased investor protection. This requires the most exact description possible of the issuer's economic situation. The fact that there are requirements to disclose financial reports periodically, ensures that share prices periodically adjust to the fundamental value of the company, and it limits the effects speculations have on the share prices (Veil, 2017, p. 317). Hence, the quality of the financial

statements are important, and it is likely that the accounting standard used will determine the preciseness of the description of the issuer's economic situation.

IASB[36], who sets the IFRS standards, has stated that their purpose is to strengthen the quality of the financial statements, especially to secure the interests of investors in international capital markets, cf. IASBs articles of association point 2 (Avlesen-Østli et al., 2018, p. 1161).

Furthermore, the aim of the IFRS Regulation is stated in Article 1:

> This Regulation has as its objective the adoption and use of international accounting standards in the Community with a view to harmonising the financial information presented by the companies referred to in Article 4 in order to ensure a high degree of transparency and comparability of financial statements and hence an efficient functioning of the Community capital market and of the Internal Market.

Thus, the purpose of the IFRS Regulation is mainly to increase the harmonisation among the member states, and to ensure that financial statements are comparable. This will make it easier for international investors to evaluate the companies' economic situation and thus cross-border cooperation. By using IFRS, investors and other stakeholders gain a basis for making informed financial decisions that help to improve capital allocation and reduce capital costs (Dib, 2019).

The requirements to prepare financial statements according to IFRS, only applies to regulated markets, and not MTFs. Further, there are no requirements regarding accounting standards in the Growth Rule Book Part II. Companies listed on Growth can therefore use Norwegian accounting standards, or other accounting standards from the country of their registered business office.

It should further be noted that if the companies on Growth are considered as small enterprises pursuant to the Norwegian Accounting Act section 1-6, cf. section 3-1,

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[36] The International Accounting Standards Board (IASB) sets the IFRS standards, and is an independent body of the IFRS foundation. It has published the standards since 2003, and is the successor of IASC.

the companies can apply the exemption provisions. For instance, according to section 3-2 (2) of the Norwegian Accounting Act, small enterprises may choose not to prepare a cash flow statement, which is an important source of information for those who use the accounts in their analysis to reduce the uncertainty when investing in companies. In addition, they can use Norwegian accounting standard 8 on good accounting practice for small enterprises. In order to be regarded as a small enterprise, the company must not exceed the limit for two of the three conditions in the provision.[37]

3.3.2 The Differences Between IFRS and NGAAP

In order to discuss whether there should be a requirement for issuers on Growth to use IFRS, we will review the most important differences between IFRS and Norwegian accounting standards.

The Norwegian Accounting Act is prepared as a framework legislation, and with a requirement that the financial statements shall follow the legal standard "good accounting practice", cf. The Norwegian Accounting Act section 4-6. It is mainly the Norwegian Account Standards Board (NASB) who makes statements on good accounting practices. The Norwegian accounting standards are in the following referred to as NGAAP.[38]

The biggest difference between IFRS and the Norwegian Accounting Act is that IFRS is balance-oriented,[39] while the Norwegian Accounting Act is profit-oriented. Overall, IFRS is a significantly more comprehensive set of rules than the rules from the Norwegian Accounting Act. IFRS is less flexible, due to the lack of details in the ordinary rules of the Accounting Act. All of the IFRS rules are legally binding, while Norwegian standards are not always binding. Among the many aspects that differ the two accounting standards, IFRS have significantly more comprehensive requirements to the notes. In contrast to the ordinary rules of historical cost from the Accounting Act, IFRS allows to a much greater degree, that assets and liabilities

[37] The terms are sales revenue of NOK 70 million, balance sheet total of NOK 36 million and average number of employees in the financial year of 50 full time equivalents.

[38] NGAAP stands for the Norwegian Generally Accepted Accounting Principles.

[39] Being balance-oriented means that only items that meet the definitions of assets and liabilities are recognized in the balance sheet, while all other items are placed in the income statement (Fradal, 2007).

are measured to their fair value, which is normally the market value. IFRS also has requirements for separate statements on changes in the equity and to present comprehensive income in addition to the income statement (Avlesen-Østli et al., 2018, p. 1169-1170).

3.3.3 Should There Be an IFRS Requirement on Growth?

The accounting standard used is an important part of the periodic disclosure, as it sets the basis of how transactions and different events should be measured, recognized, presented and disclosed in the issuer's financial statements. Furthermore, the periodic disclosure meets the capital market's continual need for information. However, it is difficult to determine the exact need for information. An empirical study shows that while professional investors mainly rely on economic data and indicators, such as sales figures, revenues and profits, as well as the analysis of charts and past share prices, other investors will often rely on recommendation of investment advisors or follow investment decisions or insider tips of supposed stock market gurus. These methods have in common that they give a basis for a prognosis on the future market developments, but this will always involve a degree of uncertainty. Financial accounting is however a well-established prognosis instrument and has proven to at least reduce the uncertainties on future developments, and must in fact be regarded as the best prognosis tool that has so far been developed (Veil, 2017, p. 315-316). Hence, the quality of the financial accounting that the issuers disclose to the public should be crucial to the professional investors.[40]

IFRS is generally a more comprehensive set of rules, and gives more details than with the use of NGAAP. Therefore, the use of IFRS will likely provide a more correct view of the issuer's economic situation. An increased level of information in the market ensures accurate pricing, i.e. an efficient market. If however, the market is already efficient, stricter requirements for the issuers will have less benefits for the investors.

According to our research, as of June 9, 2021, about 42 percent of the companies listed on Growth use IFRS, and about 53 percent of the companies use NGAAP.

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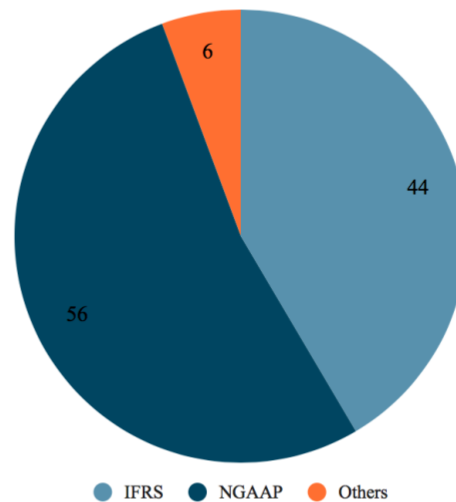
[40] As mentioned in chapter 3.1.2, it is firstly the protection of the professional investors that is important for market efficiency, not the protection of smaller investors.

Due to the fact that there are already so many companies who use IFRS on Growth, one might assume that many of the other companies who use other standards really are mature enough to use IFRS.



Graph 2: The accounting Standard Used on Growth. Source: Euronext (n.d.)

Among the companies on Growth that use NGAAP, some fall within the requirement for small enterprises in section 1-6 of the Norwegian Accounting Act. Hence, about 19 percent of the issuers use the Norwegian accounting standard 8 on good accounting practices for small enterprises. For instance, this entails that the companies are not required to prepare a cash flow statement, which is a crucial source of information for investors. The standards on good accounting practice for small enterprises are designed to provide relief for companies that presumably have a limited circle of users, and thus not for listed companies.[41] The fact that many of the companies on Growth use this standard might be troubling, and suggests that there is a need for stricter requirements.

The fact that there are different accounting standards used among the companies listed on Growth, could create information asymmetry. According to the lemons theory, information asymmetry will lead to the market collapsing because the issuer has more information than the investors. This leads to investors being willing to pay less because they are aware of the asymmetry, which causes good companies to be

[41] This topic was also addressed in the EY article "Financial reporting on Euronext Growth - what does it take?" from April 2021 (Bernhoft, 2021).

squeezed out of the market as they are not getting a fair price. The companies that remain on Growth will be the ones who spend less time and costs on the accounts. The reason is that the resources the company puts into the preparation of the report is higher than the value they get in return, in that investors are not willing to pay the same amount for shares to hedge against poorer quality than what the company claims. The value of companies will therefore decrease.

On the other hand, it is also likely that companies who report in accordance with IFRS will be valued higher than companies that use NGAAP or other accounting standards. Thus, the companies who use IFRS will squeeze out those who use other standards. However, it is not certain whether the increase in value smaller companies could get from using IFRS will be higher than the costs.

The different use of accounting standards on Growth might also make it more challenging for investors to evaluate and compare the performance.[42] For instance, it is common in valuation to compare similar companies. When valuing a firm based on comparable firms, we use different types of valuation multiples, instead of CAPM.[43] Examples of valuation multiples are P/E and enterprise value/EBITDA. When companies use different accounting standards, it can lead to them having different inputs in the multiples, which makes it more difficult for investors to use this valuation method and compare performance.

If all issuers on Growth used IFRS, it would especially be easier for international investors to compare companies' performance. Approximately 70 percent of the daily trading really happens outside of Norway, and approximately 35-40 percent of the total ownership on Oslo Børs are foreign investors.[44] The Ministry of Trade, Industry and Fisheries consultation memorandum (2019), has also stated that "foreign capital has played an important role in Norwegian business and industry

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[42] The KPMG report on Growth (2021) emphasizes the disadvantage of different accounting standards used on Growth, and that the companies using IFRS have higher quality on information about revenue recognition and estimates disclosures, than companies using NGAAP.

[43] The Capital Asset Pricing Model (CAPM) is the most widely used model for calculating the expected return on any security.The expected return consists of the risk-free rate and the market risk premium adjusted for the security's beta. According to the CAPM, a higher beta will lead to a higher expected return because investors will require higher compensation for taking higher risk (Berk & DeMarzo, 2020, p. 379-382).

[44] This information was obtained from a conversation with the CEO and president of Oslo Børs, Øivind Amundsen February 23, 2021.

for many years and that about 30 percent of the shares in companies listed on Oslo Børs are owned by foreign shareholders."[45] This gives us reason to believe that there is a notable percentage of international investors also trading on Growth.

Given that IFRS is a very comprehensive set of rules, it can however be costly for smaller companies to use this standard. Due to the fact that Growth is a marketplace for SMEs, a requirement for IFRS may lead to fewer companies having the opportunity to get listed. Furthermore, it is also required that the company has employees who have sufficient competence based on the requirements required by IFRS. For instance, it is required that one has both valuation- and IFRS competence, since several assets are to be measured at fair value. This will increase the costs for the issuer.

The IFRS standards are constantly changing. Therefore, there is an ongoing need to assess whether changes will have an impact on the company. If there was a requirement to use IFRS on Growth, it would lead to increased costs for the issuers. Another disadvantage of IFRS is that the regulations, as of today, are not accepted globally. There are several countries, such as the United States, that have not adopted this rule set.

Furthermore, it is not a given that the professional investors have such a benefit from the use of IFRS versus NGAAP, that it justifies the extra costs for the issuers. As previously mentioned, there has been proposed a draft bill to essentially replace Norwegian accounting standards with IFRS for SMEs. If this change were to be implemented, we believe there would be less of a need for an accounting standard requirement on Growth, as the standards issuers were allowed to use would resemble each other. However, the ministry concluded that major changes in the Accounting Act were not necessary, as the benefits of changes did not outweigh the costs for those required to keep accounts.

Nevertheless, the proposal involved a change in the rules of the Accounting Act so that *all* companies required to keep accounts would have to use IFRS for SMEs.

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[45] This is in line with findings from a KPMG Børspuls report (Fagervik & Pettersen, 2021) which states that there is a "relatively large proportion of foreign shareholders in the companies traded on the Stock Exchange's stock markets. The share has been increasing in 2020, and is estimated to amount to approximately 40 percent of the market value of the listed companies."

Although the ministry's view is an argument for why an IFRS, or IFRS for SMEs, requirement could have disproportionate costs, it is important to note that we discuss whether there should be an accounting standard requirement for companies listed on a stock exchange. For these companies, the quality of the accounting standard has greater value as it determines the quality of the financial reports, which in turn provides the market with important information. Thus, it is possible that the benefit for the investors could outweigh the costs for the issuers.

Whether the balancing between the investor protection and the companies need for raising capital quickly and efficiently should be different in terms of an accounting standard requirement, our conclusion is however, that at this point in time the benefit for the investors might not outweigh the costs for the issuers. This is due to the high costs of changing accounting standards, and changing to an account standard that requires far more extensive work for the issuers. Furthermore, out of all the three sets of rules we analyse, an IFRS requirement seems to be the most costly for the issuers.

3.4 ESG Reporting

3.4.1 Regulations for Regulated Markets and MTFs

The Securities Trading Act chapter 5 on periodic disclosure requirements applies only to regulated markets, pursuant to section 5-4 (1). What is particular for companies listed on a regulated market, is the obligation to explain their principles and practices for corporate governance, cf. the Norwegian Accounting Act section 3-3b. The Norwegian Corporate Governance Board ("NCGB" or "NUES") issues recommendations on corporate governance for companies listed on Oslo Børs. NUES is intended for companies that are required by the Norwegian Accounting Act to provide a report on their policies and practices on corporate governance, and states that Oslo Børs' continuing obligations will determine which companies must comply with the codes (NUES, 2018, p. 6). According to Rule Book II, rule 4.4, companies listed on Oslo Børs must comply with NUES, or explain why they do not comply, called the "comply or explain" principle.

In addition, large enterprises must explain their social responsibility, or ESG/CSR[46], i.e. what the company does to integrate the consideration of human rights, employee rights, equality and non-discrimination, social conditions, the external environment and the fight against corruption in its business strategies, cf. the Accounting Act section 3-3c. These statements should be included in the issuer's annual report. Large enterprises are, according to the Accounting Act section 1-5, public limited liability companies, companies listed on a regulated market and others required to keep accounts, if it is stipulated in administrative regulations issued by the Ministry. According to the Accounting Acts administrative regulation (FOR-1998-12-16-1240), financial institutions are considered as large enterprises. According to section 3-3c subsection 1, the statement should "at least contain information on guidelines, principles, procedures and standards the company uses to integrate the mentioned considerations into its business strategies, in its day-to-day operations and in relation to its stakeholders." Further, the issuers are also required to report on how they work to translate these into action and assess the results achieved.

Furthermore, Euronext issued a guide for ESG reporting in 2020. This guide is voluntary to follow for the issuers but makes it easier for companies to report on ESG. This guide is dynamic and will thus be updated in line with changes in our society and environmental needs. This guide also states that "in order to meet investors' openness, expectations and their increasing focus on ESG factors, listed companies have strong incentives to provide more information" (Euronext, 2020).

It is mainly the obligation to report ESG we will focus on in the following, correspondingly the Norwegian Accounting Act section 3-3c, rather than corporate governance reporting, cf. section 3-3b. This is because we consider ESG reporting to be more relevant, that it includes a broader scope, and that corporate governance issues are less prevalent and relevant for Growth at this time.

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[46] Environmental, Social and Governance (ESG) and Corporate Social Responsibility (CSR) are often used interchangeably. Some would say that CSR was the precursor of ESG, and that CSR refers to softer qualitative issues, while ESG is a quantifiable measure (Heller, 2021). The term ESG will be used in this thesis, as a collective term as it not only includes social responsibility, but also corporate governance and environment.

In order to discuss a potential change in the regulation of ESG reporting on Growth, we will review the legislative purpose for the regulations applicable to companies listed on Oslo Børs.

The Norwegian Accounting Act section 3-3c entered into force in 2013. According to Prop. 48 L (2012–2013) section 2.2.2, the purpose of ESG reporting shall be to contribute to the business community to a greater extent focusing on and integrating social responsibility in its management of the business. Furthermore, according to section 2.2.1, there was an ongoing discussion of corporate responsibility for influencing social development beyond profitable value creation, and tools for creating increased awareness of social responsibility. It is pointed out that it can be somewhat challenging to identify legal instruments that can directly contribute to increased awareness of social responsibility in different industries. However, legal instruments can be used to facilitate public spotlight on the company's activities. On the basis of this, the preparatory works announced a draft bill with requirements that the largest companies subject to accounting must state which ethical guidelines or standards for social responsibility they follow and what the company has done in the financial year to follow up its social responsibility.

Furthermore, it was stated in Innst.S.nr.200 (2008–2009) that it was important that an extended reporting regime like this actually means that companies focus, to a greater extent, on ESG, and take greater social responsibility in their activities, and that it was important to avoid only creating increased paperwork for the companies without a real development. Additionally, it is stated that as an effect of the extended reporting, customers, investors and the society will gain more information about the company’s social responsibility.

To summarise, the purpose of ESG reporting should be that it sets a public spotlight on the matter, but also that it functions as an important investor protection, in the sense that companies have to publicly disclose how their business impacts ESG factors. Thus, the purpose of the regulation of ESG reporting matches the overall purpose of disclosure requirements - that all market participants receive quick, correct and simultaneous information, which is a prerequisite for investors to be able to make a well-founded investment decision, for correct pricing and also for

confidence in the securities markets. It thus seems rather apparent that the section 3-3c of the Norwegian Accounting Act should apply to regulated markets.

The above mentioned requirements on ESG reporting does not apply to MTFs, but could apply if they can be defined as a large enterprise, cf. section 1-5 of the Accounting Act. Therefore, Euronext's non-harmonised rules for Growth must be considered. In this rule book there are no rules regarding the companies' obligation to report anything about ESG. Companies could however report this voluntarily.

3.4.2 Should There Be an ESG Reporting Requirement on Growth?

ESG reporting mostly includes information about how companies impact the environment and society in general, and how the company is governed. According to our research, as of June 9, 2021, approximately 25 percent of the companies listed on Growth include information on ESG in their annual reports.[47] Furthermore, about 31 percent of the companies are involved in the renewable energy or clean-tech business. However, many of the companies that are not, are often claiming to be "sustainable" or "eco-friendly" in their company descriptions. While many of the companies who are not among the 25 percent who report on ESG, they often mention ESG, governance or similar factors in their reports or on their websites, but the information provided is very limited.[48] Neither does ESG information on the company website suffice, as it is not adjusted regularly like with the annual reports. In addition, among the companies that do ESG reporting, the quality of the reporting and the type of information provided varies. This was in line with our assumptions, as there are no ESG reporting requirements for these companies.

The fact that issuers on Growth have less information about their sustainability in their annual reports, might make it difficult for investors to determine whether companies in fact are green investments or not. This seems to be a paradox, as many of our interviewees reported that an increased interest among investors for ESG and green investments was one of the reasons for why Growth saw such a remarkable

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[47] In fact, KPMG (2021) also reports that very few companies on Growth communicate ESG information as part of their annual report, and while many companies claim to have ESG and sustainability at the top of their agenda, few really explain what this means to their business activities. KPMG further notes that in contrast, companies listed on Oslo Børs seem to be investing in ESG reporting to a much greater extent.

[48] It is worth noting that some of the companies are newly listed, and have not yet published an annual report.

increase in listings in 2020.[49] In addition, according to our findings, there are more companies involved in the renewable energy or clean-tech business on Growth, than companies who report on ESG.

For the issuers on Oslo Børs, the ESG reporting must be part of the annual reports they are required to disclose. As previously mentioned in connection with accounting standard requirements, the periodic disclosure meets the capital market's continual need for information and ensures investor protection. This requires the most exact description possible of the issuer's economic situation. The fact that there are requirements to disclose financial reports periodically, ensures that share prices periodically adjust to the fundamental value of the company. As ESG is becoming increasingly relevant, to which degree companies integrate ESG factors in their business strategies, must be likely to impact the value of the company.

With the introduction of the EU Taxonomy Regulation[50] (Regulation (EU) 2020/852), it is likely that ESG will become even more important for investors. The taxonomy is a classification system that lists environmentally sustainable economic activities, and entered into force in July 2020, although the requirements will apply by the end of 2022. The EU Taxonomy Regulation is proposed to be implemented in Norwegian law by direct reference in a new law, "the Act on Information on Sustainability", cf. The Norwegian Financial Supervisory Authority consultation note (Ministry of Finance, 2020). The regulation will thus be implemented in its entirety. The basis for the introduction of the taxonomy is that it is necessary to direct investments towards sustainable projects, in order to reach the energy target for 2030 and the EU Green Deal.[51] To achieve this, there was a need for a common language and a common definition of what *sustainable* is (European Commission, 2021a).

[49] This is discussed in chapter 1.3.

[50] In the taxonomy, the environmental footprint of products and services must be documented (NHO, n.d).

[51] The EU Green Deal is an action plan to boost the efficient use of energy by moving to a circular economy, to restore biodiversity and cut pollution. The EU aims to be climate neutral by 2050 (European Commission, 2021b).

An important purpose of the taxonomy is to make it easier for investors to steer away from investments that are not green, and that companies with business activities that do not classify as sustainable economic activities by the taxonomy when it will apply by the end of 2022, will not be able to sell their shares as green investments. Thus, the application of the taxonomy will make so-called "greenwashing" far more difficult.[52] In fact, it is possible that many of the shares listed on Oslo Børs and Growth that are currently considered as ESG-shares, no longer will be after the taxonomy enters into force.[53]

For the banking and finance sectors, in addition to a reporting requirement which also applies to larger enterprises, there will be a requirement to report the proportion of products they offer and which parts of their revenues that satisfy the sustainability requirements set by the taxonomy. It includes management and risk management in connection with sustainable investments (NHO, n.d.). This will lead to increased investing in sustainable companies, and thus it is likely to assume that the companies that do not fulfil the requirements set by the taxonomy, will have more difficulties in raising capital. Furthermore, several financial institutions are subject to the Disclosure Regulation (Regulation (EU) 2019/2088) in the EU as of March 2021, but the regulation remains to be adapted to the EEA Agreement. The regulation imposes a number of financial institutions transparency regarding how they integrate risk related to ESG.

Furthermore, it is important to emphasize that the Taxonomy Regulation will apply to listed companies and companies with more than 500 employees. Thus, this regulation may apply to some of the companies on Growth. However, the rules on who the taxonomy should apply to are being revised, and a new proposal is expected by 2021 (NHO, n.d.). We further believe that the implementation of the taxonomy, along with the Disclosure Regulation for the financial institutions, can lead to ripple

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[52] Greenwashing is a form of misleading marketing where a company is portrayed to be more climate friendly than what they are in reality.

[53] An article from 2020 emphasizes that for instance, the company Quantafuel stands a risk of no longer being viewed as a green investment. Quantafuel is a company listed on Growth, whose main business is to use technology to transform plastic waste to diesel, among other things. Even though this is an important contribution for the circular economy goals of the taxonomy, fossil fuels are excluded from being sustainable (Framstad, 2020).

effects in the capital markets, and one could assume that it will lead to increased demand for ESG reporting either way.

With the plans that the EU has in terms of sustainability, it is difficult to argue against the importance of companies striving to be sustainable. In order for the target of the EU Green Deal to be reached, it is crucial that private capital is placed in green investments. One way to achieve an increased focus in this matter, is a requirement of ESG reporting for all companies with shares listed on a stock exchange. This can lead to greater predictability for investors. On the other hand, this will only be achieved if such a provision comes from the EU. If Oslo Børs alone introduces a provision on ESG reporting for all companies on their marketplaces, it will not have the same effect, as Oslo Børs only represents a small percentage of the European capital market.

Nevertheless, increased disclosure requirements leads to increased work and costs for the companies listed. Growth is a marketplace for SMEs and start-ups, who have limited resources. If the periodic disclosure requirements become even more stringent than what they are, it might be too burdensome for the issuers and thus have the unfortunate consequence of driving the companies away from the market. In many ways, the mere purpose of Growth is to make it easier for companies to trade on a stock exchange. One might therefore argue that the less stringent disclosure requirements for the companies on Growth are simply a part of the risk investors must take on when investing in smaller companies and start-ups, as these companies might have higher risk but will have higher expected return, according to the CAPM.

It is further possible that if ESG reporting is becoming more important for investors, the market will in fact regulate itself. Hence, increased regulations on Growth might not be necessary. One could imagine that the companies on Growth that do not report on ESG will not attract investors. In that case, the market forces will drive away the companies that do not focus on ESG. An increased demand for ESG focus from the investors may therefore force companies to report on ESG in order to raise capital effectively. This idea still presupposes that the interest for ESG among the investors is sufficient.

However, leaving the market to regulate itself in terms of ESG reporting might have unfortunate consequences because information asymmetry could arise, cf. the market for lemons theory. This is a form of market failure that could justify market regulations. Nevertheless, the introduction of the taxonomy might reduce the information asymmetry, as it makes greenwashing more difficult. However, we do not yet know whether the Taxonomy Regulation will be applicable to MTFs.

Furthermore, issuers might not have enough incentives to consider their businesses' impact on the environment and the society. This is due to the fact that it could be negative externalities, as it has no direct economic impact on the business. Hence, the ESG work including the reporting an issuer does, might not be adequately reflected in the share prices, causing the issuers not to report on ESG voluntarily. This is a form of market failure that could justify an ESG reporting requirement on Growth. However, there are different ways of making issuers take ESG into consideration in their business, and it does not have to be through disclosure requirements. For instance, the government could impose taxes on companies based on their pollution.

Generally, one could argue that an ESG reporting requirement will increase the level of information which leads to a more efficient market. However, problems related to bounded rationality according to behavioural finance and information abundance can prevent investors from processing all the information available in the market and prevent them from making optimal investment decisions. Therefore, it may be possible that an ESG reporting requirement might not make the market more efficient.

On the other hand, if there are no regulations regarding ESG reporting, it might also be difficult to determine the quality and the reliability of the information issuers provide on ESG voluntarily, because there are no clear guidelines on what issuers must inform investors of. In contrast, issuers on Oslo Børs have relatively clear guidelines set out in the Norwegian Accounting Act section 3-3c.

Furthermore, we consider it as a paradox that so many companies on Growth sell themselves as ESG companies, when in fact they are not even reporting on how ESG is integrated in their business strategies and what kind of results they have

achieved. It might be very difficult for investors to determine how the issuers integrate ESG in their business activities if there are no regulations on how they should inform the market. If the Taxonomy Regulation will not apply to MTFs, and with no requirements of ESG reporting, along with increased ESG demand, greenwashing could be an increasing problem. This type of misleading marketing could lead to investors losing confidence in the marketplace, and thus driving them away. This will be damaging to the marketplace and its efficiency, and will have negative consequences to the economy as a whole.

To summarise, ESG is becoming increasingly relevant, especially with the EU Green Deal and the implementation of the taxonomy. It is not yet known for sure whether the Taxonomy Regulation will apply to MTFs. However, we assume that the implementation will make ESG even more relevant than before, for all financial markets. The fact that there are many ESG companies listed on Growth, and that there are no requirements for them to report on ESG, might make it difficult for investors to determine whether the company in fact are green investments or not. ESG reporting therefore functions as important protection of investors. Thus, the question arises whether there should be a requirement for issuers on Growth to report on ESG. Although this will increase the information level and consequently reduce the risk for the investors, an ESG reporting requirement leads to significantly increased costs for the issuers. Stricter disclosure requirements might also create information abundance, and with bounded rationality, investors might not make optimal investment decisions. The benefits for the investors might not outweigh the costs for the issuers. One could imagine that with time, more companies would have to report on ESG in order to attract investors as ESG is becoming increasingly relevant, and thus that the marketplace will regulate itself.

Whether the balancing between the investor protection and the companies need for raising capital quickly and efficiently should be different in terms of ESG reporting, our conclusion is that at this point in time it might not be necessary to impose an ESG reporting obligation on the issuers on Growth. The main idea of our conclusion is that we believe that the marketplace will be able to regulate itself, because the interest for ESG among the investors is likely to be quite high.

4 Conclusion and Market Outlooks

4.1 Conclusion

In this thesis, we have researched whether the balance between investor protection and the consideration of smaller companies' need for raising capital quickly and efficiently should be different on Growth. We approached this topic by analysing three sets of rules that apply to the regulated market, Oslo Børs, and whether these rules should also apply to Growth. Our conclusion is that there should be an obligation to disclose large shareholdings, but that at this it is not necessary with a requirement to use IFRS nor ESG reporting for the issuers.

The conclusions we have drawn are based on separate considerations as they are presented, but we have also considered the sets of rules collectively. We found it clear that if all the rules should apply to Growth, the marketplace would probably be too similar to Oslo Børs, and the only real significant difference between the two marketplaces would be the admission rules, and also the fact that the mandatory bid obligation does not apply. As a consequence, the marketplace would lose some of its purpose.

The three sets of rules are disclosure requirements, and so many of the considerations we have discussed are the same. A pervasive discussion throughout chapter 3 of our thesis, is that the different requirements will increase investor protection by reducing the information asymmetry, which could make the marketplace more efficient. However, increased regulations always come with a cost, and could lead to market players withdrawing their money. This would harm the functioning of the marketplace and thus have consequences for the economy as a whole.

The main reason why we concluded that there should be an obligation to disclose large shareholdings and not IFRS and ESG reporting requirements however, is that the two last-mentioned requirements will have relatively large costs for the issuers. The issuers on Growth are smaller companies who get listed to raise capital quickly and efficiently in order to grow, and they have limited resources to use on complying with disclosure requirements. Therefore, an obligation to use IFRS

and/or ESG reporting, could have unwanted effects like companies choosing not to get listed or increased de-listings. We believe that increased regulations should only be implemented if the benefit for the investors outweighs the costs for the issuers, and we were not convinced that this was the case with IFRS and ESG reporting requirements. At this time, we believe that the marketplace is better off regulating itself, in the sense that issuers might choose to use IFRS and/or do ESG reporting in order to be competitive and attract investors. In this context, it is worth noting that some of the issuers on Growth already use IFRS and/or reports on ESG voluntarily.

We have also concluded that the disclosure of large shareholdings should put a burden on the investors and not the issuers, similarly as on Oslo Børs. Such an obligation will lead to increased costs for the investors, in the sense that they will use some time on reporting their shareholdings if they reach, exceed or fall below certain thresholds and the fact they are no longer able to do stealth acquisitions. However, we believe the many benefits for the investors outweigh such costs, and that an obligation to disclose large shareholdings is important to preserve market confidence and integrity. This is important to attract investors and thus preserve the functioning of the marketplace.

Furthermore, we have previously concluded that an obligation to disclose large shareholdings should come from legislators. Thus, there must be a change in the Norwegian Securities Trading Act. This might be troubling as such a change must harmonise with EU legislation, as the current obligation to disclose large shareholdings is implemented from the Transparency Directive (2004), which only applies to regulated markets. Nevertheless, it is worth mentioning that this is only a minimum directive and the member states can thus choose to come up with stricter provisions. It is also worth mentioning that the legal process in Norway is long and draft bills must go through many different authorities. Since the regulatory authorities are not omniscient, rules should also be well-founded (Myklebust, 2011, p. 43).[54] It will thus take time before such a provision becomes applicable law.

[54] According to NOU 2000: 9, the authorities usually do not have the opportunity to obtain sufficient information to be able to implement sufficient measures. Thus, most regulatory measures are not sufficiently accurate and can turn market participants' adaptation in an unfavorable direction. In addition, regulatory measures could lead to significant administrative costs for both the authorities and market participants. One should therefore carefully consider the need for regulation even if there are market imperfections.

4.2 Market Outlooks

Growth is a relatively new marketplace who has only recently seen a significant increase in activity. It is likely that the current trend of frequent listings will flatten out. Many have also believed that the marketplace has had bubble tendencies, but are currently facing a shift.[55]

Although there has not yet been cases or events that suggest a need for increased investor protection on Growth, this might still come in the future. For instance, there could be increased M&A (Mergers & Acquisitions) activity that will emphasize the need for an obligation to disclose large shareholdings. To our knowledge, there has not yet been a great deal of M&A activity in the marketplace, and we assume that this is due to the fact that many of the companies are relatively newly founded and have only recently been listed on Growth.

Moreover, at this time we do not know the result of the Norwegian Financial Supervisory Authority's investigation of all the listings on Growth in 2020-2021. It is possible that this investigation could result in increased regulations.

To summarise, Growth is a relatively new marketplace and much is still uncertain. Along with the increased attention and new listings in recent times, the question of a need for increased investor protection has been highly relevant. Even so, it is possible that future developments could give rise to a need for less investor protection. Either way, it will be interesting to follow the developments in the marketplace in the coming years.

[55] Many of the companies listed on Growth have already seen a quite sharp decline in stock prices during the first half of 2021. An article from May 2021 points out that the Oslo Børs and Growth might be heading towards the end of a speculative boom (Solgård, 2021).This can be seen as a parallel to the Dotcom bubble, at the turn of the millennium, where many of the companies had little or no earnings and few results to show. According to theories in the capital market, there will always be some companies that will never make money since other companies have products that have a higher demand. It is thus not certain that there is an ESG bubble on Growth (Framstad, 2021).

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