Advokatfirmaet Schjødt AS
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25 July 2024

SAS AB – Conditional resolution to delist the company's shares from admittance to trading on Euronext Oslo Børs

1. Introduction

Please refer to the e-mail dated 19 July 2024 whereby Advokatfirmaet Schjødt AS on behalf of SAS AB ("SAS" or the "Company") applies for the Company's shares to be delisted from admittance to trading on Euronext Oslo Børs in accordance with Euronext Oslo Rule Book II section 2.11.2 (3).

2. Background and basis for application

According to the application, SAS has filed a plan of reorganization (the "Plan") with the Stockholm District Court (the "Court") for the reorganization process, which in all material respects mirrors the outcome of SAS' Chapter 11 plan approved by the U.S. Bankruptcy Court on 19 March 2024. On 19 July 2024 the Court ruled to approve the Plan, including among other things, (i) the cancellation of all existing listed common shares and (ii) the issuance of new (unlisted) subordinated shares to the Company's new investors and certain unsecured creditors that will receive shares on account of their claims against the Company and certain subsidiaries. It is mentioned that the cancellation of the existing common shares is a consequence of the "absolute priority rule" under both U.S. and Swedish Insolvency law. The cancellation will be carried out through a reduction of the share capital in combination with a redemption of all existing common shares (for zero consideration to the existing shareholders) in accordance with the rules of the Swedish Companies Act (Sw. aktiebolagslagen 2005:551).

It is further stated that in order to comply with the absolute priority rule and to otherwise allow for certain reorganization measures (e.g. the redemption of existing shares and the issuance of new shares), the Swedish Company Reorganization Law (Sw lag (2022:964) om företagsrekonstruksjon) explicitly takes priority over certain provisions in the Swedish Companies Act by stating that the reorganization plan approved by the affected parties (or a sufficiently majority of the voting classes) and ultimately confirmed by the court, in a few specific aspects (including for the corporate actions mentioned above, but not in respect of e.g. a delisting) is deemed to have the same effect as a resolution by the general meeting of shareholders. Consequently, no general meeting is required under Swedish law or will otherwise be convened in this case to resolve on the corporate actions mentioned above (including the cancellation of the existing common shares).

It is further stated that the Court's decision to approve the plan is subject to an initial 3-week appeal period. If the court's decision is not appealed, the Plan will enter into legal force upon the expiry of the initial appeal period. If the Court's decision is appealed, the Plan will enter into legal force once a decision by the relevant Court of Appeal confirming

the Court's decision to approve the Plan has become final and binding. The duration of such potential appeal process will depend of the substance and outcome of the appeal.

It is further stated that once the Plan has entered into legal force, it becomes definitive that all existing common shares of SAS (the "Shares") will ultimately be cancelled without consideration to the existing shareholders. It is SAS' view that the listings on Nasdaq Stockholm, Euronext Oslo Børs and Nasdaq Copenhagen should be discontinued as a consequence of the Plan entering into legal force, and the cancellation of all Shares inherent thereto and that the delisting should become effective simultaneously on the exchanges.

The delisting application is made on behalf of the board of directors of SAS pursuant to Euronext Oslo Rulebook II, clause 2.11.2 (3). SAS recognize that said regulation presumes that the issuer's shareholders' meeting has approved the delisting and applies for an exemption from said requirement pursuant to the third sentence of the same provision.

The Company proposes that, as the reorganization process is completed but not yet gained full legal force, Euronext Oslo Børs resolves to delist the shares on condition that the Plan enters into legal force, which will occur once the decision by the Court or the relevant Court of Appeal approving the Plan becomes final and binding under Swedish law (the "Condition"). The Condition is identical for the delisting applications submitted to all three exchanges.

3. Legal background

The Securities Trading Act section 12-3, first paragraph, states:

> *"A market operator may suspend or remove from trading on the regulated market a financial instrument which no longer complies with the regulated market's terms and conditions. The market operator may nonetheless not suspend or remove a financial instrument from the regulated market if this would be likely to cause significant damage to the holders of the instrument or the roles and functioning of the market."*

Euronext Oslo Rulebook II section 2.11.2 (3) specifies that

> *"An Issuer with shares admitted to trading on Euronext Oslo Børs or Euronext Expand may apply to Euronext Oslo Børs to have its shares delisted if a general meeting has passed a resolution to this effect with the same majority as required for changes to the articles of association. Euronext Oslo Børs makes the final decision on delisting. Euronext Oslo Børs may in special circumstances grant an exemption from the first sentence."*

The provisions involve a high degree of discretion and the circumstances of each individual case must be considered as part of the overall evaluation made by Euronext Oslo Børs.

In 2014, the EU adopted rules revising the MiFID framework, consisting of a directive ("**MiFID II**") and a regulation ("**MiFIR**"). New rules in the Securities Trading Act implementing MiFID II in Norway entered into force on 1 January 2019. Further, MiFIR and the Commission

Delegated Regulation (EU) 2017/565[1] ("**Commission Delegated Regulation**"), were implemented into Norwegian law with effect from 1 January 2020 through incorporation in the Securities Trading Act section 8-1 and the Securities Trading Regulations section 2-2, respectively.

Article 80 of the Commission Delegated Regulation sets out circumstances constituting significant damage to investors' interests and the orderly functioning of the market. It follows from article 80 paragraph 1 that "*a removal from trading of a financial instrument shall be deemed likely to cause significant damage to investors' interests or the orderly functioning of the market*" at least where (a) "*it would create a systemic risk undermining financial stability, such as where the need exists to unwind a dominant market position, or where settlement obligations would not be met in a significant volume*", (b) "*the continuation of trading on the market is necessary to perform critical post-trade risk management functions when there is a need for the liquidation of financial instruments due to the default of a clearing member under the default procedures of a CCP and a CCP would be exposed to unacceptable risks as a result of an inability to calculate margin requirements*", and (c) "*the financial viability of the issuer would be threatened, such as where it is involved in a corporate transaction or capital raising*".

Further, it follows from article 80 paragraph 2 that all relevant factors shall be considered when determining whether a removal is likely to cause significant damage to the investors' interest or the orderly functioning of the market, including (a) "*the relevance of the market in terms of liquidity where the consequences of the action are likely to be more significant where those markets are more relevant in terms of liquidity than in other markets*", (b) "*the nature of the envisaged action where actions with a sustained or lasting impact on the ability of investors to trade a financial instrument on trading venues, such as removals, are likely to have a greater impact on investors than other actions*", (c) "*the knock-on effects of a suspension or removal of sufficiently related derivatives, indices or benchmarks for which the removed or suspended instrument serves as an underlying or constituent*", and (d) "*the effects of a suspension on the interests of market end users who are not financial counterparties, such as entities trading in financial instruments to hedge commercial risks*".

According to article 80 paragraph 3, the factors set out in paragraph 2 shall also be taken into consideration where it is resolved to remove a financial instrument on the basis of circumstances not covered by the list of paragraph 1.

The recital of the Commission Delegated Regulation, which expresses the objectives of the regulation, states in paragraph 116 that "*[i]t is necessary to further specify when a suspension or a removal from trading of a financial instrument is likely to cause significant damages to the investor's interest or to the orderly functioning of the market" and that "[c]onvergence in that field is necessary to ensure that market participants in a Member State where trading in financial instruments has been suspended or financial instruments have been removed are not disadvantaged in comparison to market participants in another Member State, where trading is still ongoing*".

[1] Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organizational requirements and operating conditions for investment firms and defined terms for the purpose of that Directive.

4. Evaluation by Euronext Oslo Børs of the application for delisting

Euronext Oslo Børs has considered whether a delisting would not be supported by the relevant rules in MiFiD II and MiFiR. As the shares impacted will be cancelled as a consequence of a court order, Euronext Oslo Børs is of the opinion that these are not relevant.

Euronext Oslo Børs has also considered whether the delisting would be in accordance with the Securities Trading Act section 12-3, first paragraph. As the shares in question will be cancelled as a consequence of a court order, Euronext Oslo Børs is of the opinion that a delisting will be in accordance with the abovementioned rules.

Euronext Oslo Børs has further considered whether an exemption from requiring a resolution on a general meeting may be granted. As described in the application, the restructuring process is governed by SAS Chapter 11 plan approved by the U.S. Bankruptcy Court on 19. March 2024 and the reorganization process approved by the Court. Part of this Plan is that all existed listed common shares are cancelled as it is a consequence of the "absolute priority rule" under both U.S. and Swedish Insolvency law. It is further specified that no general meeting is required under Swedish law or will otherwise be convened in this case to resolve on the corporate actions mentioned above. Based on this, it is the understanding of Euronext Oslo Børs that the cancellation of the shares is expected to come into force regardless of any quorum in a general meeting, on condition that the Plan enters into legal force. Based on this, Euronext Oslo Børs is of the view that an exemption may be granted.

5. Resolution

Euronext Oslo Børs has on 25 July 2024 made the following resolution:

> "*The shares in SAS AB will be delisted from the Euronext Oslo Børs subject to SAS AB submitting satisfactory documentation with respect to that the plan of reorganization that has been approved by the Stockholm District Court becomes final and enforceable under Swedish law (i.e. after the expiry of any relevant appeal procedures). Euronext Oslo Børs will thereafter decide and publish the last day of trading.*"

This decision can be appealed to the Stock Exchange Appeals Committee within two weeks, cf. the Securities Trading Regulations section 12-5.

Kind regards,

Oslo Børs ASA
Torstein L. Ødegård
Listing Admission Manager