

## **Oxy Group PLC – violation charge due to material breaches of the Admission to Trading Rules for Merkur Market and the Continuing obligations of companies admitted to trading on Merkur Market**

*According to Oslo Børs' internal procedures, Øivind Amundsen (executive vice president of the primary market and legal affairs) and Thomas Borchgrevink (executive vice president of surveillance and operations) did not take part in the decision, but provided information to the executive management group only. The surveillance and operations section prepared the case for the executive management group while legal affairs assisted.*

### **1 Introduction and executive summary**

Oslo Børs ASA (“**Oslo Børs**”) has investigated breaches by Oxy Group PLC (the “**Company**”) to the Admission to Trading rules for Merkur Market (the “**Admission Rules**”) and the Continuing obligations of companies admitted to trading on Merkur Market (the “**Continuing Obligations**”), together the Merkur Market rules.

The breaches are related to the conversion of funds advanced by two main shareholders of the Company. The advances were converted to shares on 12 April 2016 (the “**Conversions**”). The Conversions included the issuance of 6,000,000 shares by the Company at an average issue price of approximately NOK 0.53, a discount of 98% compared to the volume weighted average price in the share at the time. For all remaining shareholders in the Company that did not get the opportunity to maintain their relative shareholding, the Conversions implied a significant dilution as the total share capital in the Company increased from 2,600,000 ordinary shares to 8,600,000 ordinary shares.

The Company initiated the application process for admission to trading on Merkur Market on 18 December 2015 and was admitted to trading on 13 January 2016. Information regarding the future conversions and the underlying agreements entered into between the Company and the two main shareholders (the “**Advances Agreements**”) were not included in the documentation submitted to Oslo Børs. In this regard, Oslo Børs has investigated whether the Company has complied with its duty to disclose sufficient information in the admission process. Further, Oslo Børs has investigated if the Company has complied with its duty to disclose inside information following the first day of trading.

Based on the nature of the Conversions, Oslo Børs has also looked into the matter in relation to the principle of equal treatment of shareholders as stated in the Continuing Obligations section 2.1. Oslo Børs has received an account on the background for the Conversions from the Company.

Oslo Børs has decided to impose a violation charge on the Company due to material breaches of the Merkur Market rules in relation with the Conversions, cf. the Continuing Obligations section 12.3 (2) and (3).

## 2 About the Company and the Transactions

### 2.1 The Company

Oxy Group PLC is a public limited liability company incorporated under the laws of Cyprus in 2012. The Company provides web design and online publishing platform for SMEs, freelancers, design and fine arts professionals.

The Company is the holding company of the group and has three subsidiaries, domiciled in Malta, Bulgaria and the UK (together the “**Group**”). The Group has 10 employees, all employed by the Bulgarian subsidiary.

The Company was admitted to trading on Merkur Market on 13 January 2016 (the “**Admission Date**”).

As of the Admission Date, the issued and fully paid share capital of the Company consisted of 2,600,000 ordinary shares, each with a nominal value of 0.01 EUR and the total authorized share capital consisted of 10,000,000 authorised ordinary shares. The Company had only one class of shares on the Admission Date.

Throughout the admission process the Company disclosed information about the following agreements which would potentially increase the share capital of the Company:

- an investment agreement entered into between the Company and Advertising Direct Development Mediafund 1 Kommanditbolag (“**ADD**”) whereby ADD agreed to invest media in the commercialisation of the Company’s software in addition to contribute superior knowledge within branding and marketing. Subject to ADD providing media and competences to the Company no later than 31 January 2016, a total of 650,000 new ordinary shares would be issued to ADD no later than 30 March 2016 (the “**ADD Investment Agreement**”).
- A convertible loan agreement entered into between the Company and the White November Fund Ltd. As at 30 September 2015, the date of the Admission Document the convertible loan balance was EUR 168,345 with maturity on 31 January 2017. The maximum convertible loan amount has been agreed to EUR 500,000 with the conversion rate of EUR 25.00. (the “**WNF Convertible Loan Agreement**”)

None of these agreements are of relevance to the Conversions.

At the Admission Date, the Company had eight shareholders. The main shareholders in the Company were:

- The White November Fund Ltd (“**WNF**”) – 45%
- Dimitar Dimitrov (CEO) – 45%

The Chairman of the board of directors is Lars Christian Beitnes on behalf of Aston Management (Cyprus) Ltd. As of the Admission Date, Lars Christian Beitnes was the owner of Aston Management (Cyprus) Ltd. Lars Christian Beitnes is also a co-founder of WNF, the main shareholder of the Company. On the Admission Date, he owned and controlled all B-shares in WNF. The B-shares carries all voting rights in

WNF, but have no profit rights. In addition, he owned and controlled White November Corporate Services (Cyprus) Ltd., the company secretary of the Company.

After the Company was accepted for trading on Merkur Market, the Company has released the following stock exchange announcements:

<b>Date:</b>	<b>Content:</b>
26 February	Financial reports: Unaudited Q4 -2015 and audited full year 2015.
22 March	WNF sells 430,000 ordinary shares at NOK 31/share. WNF ownership: 28.46%*
14 April	4 mill. ordinary shares issued to WNF at NOK 0.50/share. WNF ownership: 55.06%*
14 April:	2 mill. ordinary shares issued to CEO at NOK 1.17/share. CEO ownership: 36.80%*
14 April:	Notice of AGM: proposals: 1) Authorised share capital suggested increased by 50% and 2) subscription rights incentive plan with the size of 50% of the registered number of shares directed to employees and consultants.
2 May:	WNF purchases 1,000 shares at NOK 32/share. WNF ownership: 55.13 %*
13 May:	Minutes from annual general meeting. All decisions passed unanimously.
4 July:	Update on conversion of advances. Oslo Børs has initiated a process that might end in the shares being removed from trading on Merkur Market. Considering a repair issue.
25 July:	Decision to carry out a subsequent repair offering

(In addition, certain technical announcements related to the repair offering have been sent).

\* Ownership as presented in stock exchange announcements.

As of 21 June 2016, the Company had 8,600,000<sup>1</sup> shares issued and outstanding, of which 5,430,000 shares were registered in the VPS. The table below shows the VPS registered shareholder structure as of 21 June 2016:

<b>Shareholder</b>	<b>Shareholding</b>	<b>Percentage</b>
The White November Fund	4 741 000	87.31 %
RBC Investor Service Client Acc.	430 000	7.92 %
Thor Håvard Beitnes	52 000	0.96%
Rune Omund Årnes	52 000	0.96%
Bjørn Erik Beitnes	52 000	0.96%
Odd Aarhus	50 898	0.94%
Cochrane Stephen 2005 Le Monte Carlo	26 000	0.48%
Arild Skiri	26 000	0.48%
Arvid Hefte	90	0.00%
Nordnet Bank AB	5	0.00%
Alexander Fosvold Stormoen	4	0.00%
Skrondal Invest	3	0.00%
<b>TOTAL</b>	<b>5 430 000*</b>	<b>100%</b>

<sup>1</sup> The number of shares is based on the number of shares at the date of admission to trading + 6,000,000 Conversion shares

According to the Company, the shares held by the CEO are still not registered in the VPS due to late processing of his VPS account.

## 2.2 The Conversions

As described above, the Company has entered into six agreements where funds and contributions from WNF and the CEO are advanced as shareholder equity to support the operations of the Company in the period 2013 – 2015 (the Advances Agreements). In return, the advances could be converted to shares in the Company in accordance with the terms of the Advances Agreements. The key terms of the relevant Advances Agreements are:

Date of agreement	Counterparty	Advances	Cumulative advances	Conversion price	Conversion date
04.01.2013	CEO	Up to EUR 100'	EUR 100'	EUR 0.095	31.12.2016
06.01.2014	CEO	Up to EUR 100'	EUR 200'	EUR 0.155	31.12.2016
05.01.2015	CEO	Up to EUR 100'	EUR 300'	EUR 0.075	31.12.2016
04.01.2013	WNF	Up to EUR 100'	EUR 100'	EUR 0.065	31.12.2016
06.01.2014	WNF	Up to EUR 100'	EUR 200'	EUR 0.075	31.12.2016
05.01.2015	WNF	Up to EUR 100'	EUR 300'	EUR 0.035	31.12.2016
<b>TOTAL</b>			<b>EUR 600'</b>		

The Company has informed Oslo Børs that the Advances have been classified as equity in the financial statements and that the Advances were not a part of the Company's liabilities.

According to the Advances Agreements, the Company could convert the advances to shares at any time on or before the conversion date. All advances were converted on 12 April 2016 (the Conversions), and announced on 14 April 2016. The Company has confirmed that there are no remaining conversions.

The Conversions were resolved by the Board of Directors within the limits of the authorised share capital of the Company at that time (10,000,000 shares).

## 3 Legal Background

As a company admitted to trading on Merkur Market, the Company is subject to certain provisions of the Norwegian Securities Trading Act as well as the Admission Rules and the Continuing Obligations. Oslo Børs may impose sanctions on Merkur Market companies in accordance with the Continuing Obligations section 12 if breaches to the Admission Rules or the Continuing Obligations are identified:

### 12.1 Removal from trading

*(1) Oslo Børs ASA can remove financial instruments issued by the company from trading if they no longer satisfy the rules for Merkur Market, or if called for on other special grounds.*

*(2) If the company has grossly or repeatedly violated the provisions of securities legislation or these rules, this shall in general be regarded as a sufficient reason that may call for the company's shares to be removed from trading.*

(3) ...

(4) Before a decision on removal from trading is made, the question of removal from trading and which measures if any that could be implemented in order to avoid removal from trading shall be discussed with the company. If the circumstance that justifies removal from trading can be rectified, Oslo Børs ASA can grant the company a certain period of time in which to rectify the circumstance or it may order the company to draw up a plan in order to re-satisfy the requirements for admission to trading. Concurrently the company shall be advised that if the circumstance is not rectified or a satisfactory plan is not presented by the deadline, consideration will be given to removing the financial instruments in question from trading.

(5) Oslo Børs ASA shall publish a decision regarding removal from trading immediately.

(6) ...

(7) The decision to remove financial instruments from trading shall state the date on which removal from trading will be implemented. When fixing the date for removal from trading, consideration shall be given inter alia to allowing the company a reasonable period to adjust to the fact that its shares will no longer be traded.

(8) ...

### **12.3 Sanctions for a company with shares that have been admitted to trading**

(1) ...

(2) If a company materially breaches the rules for Merkur Market, Oslo Børs ASA may resolve to impose a violation charge, payable to Oslo Børs ASA.

(3) A violation charge shall be determined in accordance with the following rules:

1. The company shall be informed that the imposition of a violation charge is under consideration and of the circumstances on which this is based. The company shall have at least one week to express its views before Oslo Børs ASA reaches a decision.
2. The charge imposed on a company may not exceed NOK 1,000,000 for each violation that may be sanctioned with a violation charge. When deciding the size of the charge, Oslo Børs will attach importance to the company's market capitalisation and financial condition, as well as to the seriousness of the breach and its character in general.

(4) A company upon which a violation charge is imposed shall be notified in writing of the decision, and the grounds for the decision. Moreover, information shall be provided on the right to appeal to the Merkur Market Appeals Committee, the deadline for any appeal and the procedure for appeal.

(5) The decision and the grounds for the decision shall be published unless there are special grounds for not doing so.

(6) Oslo Børs ASA will send an invoice for the violation charge imposed, which is payable 30 days after the invoice date.

### **3.1 Relevant provisions in the Admission Rules**

The Admission Rules has a separate provision on sufficient information and suitability for admission to trading which is relevant for this particular case. Section 2.1.1 stipulates the following:

*(1) Shares issued by a public limited liability company, a private limited liability company or an equivalent foreign company may be admitted to trading provided the company can provide sufficient information for market participants to be in a position to determine fair market prices.*

*(2) When deciding on admission to trading, an overall evaluation will be carried out to determine whether the shares are suitable for admission to trading. Attention will be paid to:*

- 1. the company's financial condition;*
- 2. whether significant shareholders have acted in such a manner as to make the company deemed unsuitable for admission to trading. "Significant shareholders" means shareholders who either individually or together with their close associates, cf. Securities Trading Act Section 2-5, directly or indirectly own or control more than 1/3 of the share capital or voting capital of the company; and*
- 3. other material matters.*

Further, the Admission Rules contains several provisions on content requirements for the companies' application for admission for trading. Section 3.2 (4) states that the application in particular should include:

*1) -10) ...*

*11) Information on relevant circumstances, including business critical contracts and patents that may be material to assessing the admission of the company to trading.*

*12) Any material transactions that the company has entered into or is in the process of entering into with close associates as mentioned in section 3.3 of Continuing Obligations that may be material assessing the admission of the company to trading.*

*13)-14) ...*

*15) Any options, warrants or loans giving the right to require the company to issue shares, and any subordinated debt or transferable securities issued by the company*

*16) Any possible increases in the share capital (...) that the company expects to carry out. (...)*

*17) – 19) ...*

*20) Information on shareholder resolutions or decisions, shareholder agreements etc., of which the company is aware and which may have a bearing on the suitability of the company's shares for admission to trading*

*21) -26) ...*

Furthermore, the due diligence investigations are an important part of the admission process for Merkur Market. Certain provisions in section 3.3 of the Admission Rules are considered especially relevant for this particular case:

- (1) The company must carry out limited scope financial and legal due diligence in connection with the process of admission to trading in order to identify whether there are any matters that are of significance to assessing whether the shares are suitable for admission to trading.*

- (2) *The legal due diligence investigation shall as a minimum cover the following:*
- 1 – 3 (...)*
  - 4. Material agreements that have been entered into and ownership of significant assets as described in the application and admission document*
  - 5(...)*
  - 6. Other material matters that may be of significance to the assessment of the company as an investment*
- (3) ...
- (4) *The due diligence advisors shall also assess whether the company has sufficient expertise, resources and procedures in place to satisfy the requirements for the correct and proper management and distribution of information.*
- (5) *The company must also evaluate whether there is a need to carry out further investigations, including due diligence in respect of (...) and financial matters, as well as any other matters of significance.*
- (6) ...
- (7) *(...)Any matters that may be of significance for whether the company's shares are suitable for admission to trading must be presented at the meeting, including matters that may be of significance for whether the company satisfies the requirements of the Admission to Trading Rules. The company shall give Oslo Børs ASA a concise written report at the due diligence meeting that includes any findings from the due diligence investigations that are of importance for whether the company's shares are suitable for admission to trading. (...).*
- (8) *Oslo Børs ASA may require that the company must carry out further due diligence investigations if it is apparent from the application that the company has not carried out satisfactory due diligence investigations (...) or if satisfactory due diligence has not been carried out pursuant to these provisions, or that due diligence has not been carried out in accordance with the plan set out in the application, or if Oslo Børs ASA considers such steps necessary for other reasons.*

Furthermore, it is also relevant to mention section 4 of the Admission Rules, which stipulates that:

*The rules on the duty of disclosure in the Continuing Obligations shall apply to the company from the time it is admitted to trading. (...)*

As further described above, a company applying for trading on Merkur Market shall prepare an admission document which must be approved by Oslo Børs before the first day of trading. Section 7 of the Admission Rules stipulates certain general content requirements in respect of such admission document:

- (1) ...
- (2) *The admission document shall provide a clear and comprehensive description of the company and the securities for which admission to trading is being sought in which the significant characteristics and risk factors associated with the company and its shares are clearly presented. Sufficient information shall be given about any transactions that are planned for the period prior to admission to trading.*

- (3) *The admission document must also address any significant matters or characteristics associated with the company or its shares that are not covered by these content requirements.*

In addition, Appendix A to the Admission Rules sets out specific content requirements in respect of the content of the admission document, as further discussed in section 5.1.3 below.

### **3.2 Relevant provisions in the Continuing obligations**

The Continuing Obligations have certain general provisions relevant for the case discussed in this document.

Section 2.1 of the Continuing Obligations stipulates the following with regard to the principle of equal treatment of shareholders:

*(1) Companies admitted to trading must treat holders of their shares on an equal basis. The company must not expose holders of its shares to differential treatment that lacks a factual basis in the common interest of the company and the shareholders.*

*(2) In connection with the trading or issuance of shares or rights to such shares, the company's corporate bodies, elected officers or senior employees must not adopt measures which are likely to confer upon themselves, certain owners of shares or third parties an unreasonable advantage at the expense of other shareholders or the company. The same applies in respect of the trading or issuance of shares or rights to such shares within the group to which the company belongs.*

Furthermore, the companies admitted to trading on Merkur Market shall execute good business practice in accordance with the provisions of the Norwegian Securities Trading Act section 3-9 and the Continuing Obligations section 2.2, which stipulates that:

- (1) ...
- (2) *Conduct of business rules shall be observed in approaches addressed to the general public or to individuals which contain an offer or encouragement to make an offer to purchase, sell or subscribe for financial instruments or which are otherwise intended to promote trade in financial instruments.*

A Company admitted to trading on Merkur Market is also subject to a duty to publicly disclose inside information in accordance with the Continuing Obligations section 3.1.1:

- (1) *The company shall without delay and on its own initiative publicly disclose inside information that concerns the company directly, cf. Section 3-2, first to third paragraphs, of the Securities Trading Act.*
- (2) *Inside information shall mean any information of a precise nature relating to financial instruments, the issuer thereof or other circumstances which has not been made public and is not commonly known in the market and which is likely to have a significant effect on the price of those financial instruments or of related financial instruments.*
- (3) *Information shall be deemed to be of a precise nature if it indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur and which is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of the financial instruments or related financial instruments.*



*(4) Information which would be likely to have a significant effect on the price of financial instruments or related financial instruments shall mean information of the kind which a reasonable investor would be likely to use as part of the basis of his investment decisions.*

*(5) - (7) ...*

Regarding changes to a Company's share capital, section 9.4 of the Continuing Obligations stipulates the following with regard to the Company's specific disclosure obligations:

*(1) - (2) ...*

*(3) In the event of any change in share capital, in the number of votes or in the number of shares issued, the company shall immediately make public that the change has been made and the amount of its new share capital and the total number of votes and shares issued.*

*(4) Before new shares issued by a foreign company are admitted to trading, the company must not only comply with the requirement set out in the third paragraph but also publicly disclose that the shares are validly and legally issued and fully paid up.*

*(5) Oslo Børs ASA may in special circumstances grant exemptions from the third and fourth paragraphs.*

#### **4 Statements from the Company**

Oslo Børs received the Company's response on 1 August 2016 ([Appendix 1](#)). The Company acknowledges that the conversion prices for the Shareholder advances were not disclosed in the Admission Document. Further, the Company does not argue that conversions of shareholder advances were not made part of the admission process at any stage. Neither does the Company argue that the Conversions represented inside information which was not communicated to the market before 14 April 2016, when the conversions were completed.

Oslo Børs requested additional information about the shareholder advances in e-mail of 12 August 2016 ([Appendix 2](#)) and received the Company's response (through lawyer) in e-mail of 16 August 2016 ([Appendix 3](#)).

##### **4.1 Admission Process**

According to the Company, the failure to include the conversion terms for the shareholder advances was due to the immense time pressure which the entire admission to trading process was carried out under. Please see attachment 1 to the attached response from Oxy Group PLC which describes the timeline the Company was working under in order to make the first day of trading on Merkur Market and take advantage of the "free listing" offer from Oslo Børs. The Company has identified certain obstacles that occurred in the admission process which required extraordinary resources at the cost of ensuring that all relevant information was included in the Admission Document.

The Company refers to the admission process as "unbelievable time pressure on multiple topics" in attachment 1 to their response letter. Please see the Company's response letter including attachments for more details on the admission process seen from Oxy's perspective.

## 4.2 Admission Document

The Company emphasizes that the Shareholder Advances were referred to ten times in the Admission Document, but they also admit that the terms for conversion were not mentioned. In the opinion of the Company, the fact that the shareholder advances are referred to in the Admission Document proves that Company did not have any intentions to hide the Shareholder Advances, rather to the contrary.

On a more detailed level, the Company is referring to section 4.2 of the Admission Document, "Capitalisation and Indebtedness". In this section, the Company stated that they were not aware of any significant changes in the capitalisation or indebtedness after 30 September 2015, other than the **conversion of part of the advances** made for capital increase into Ordinary Shares in Oxy Group PLC in December 2015. From the Company's perspective this shows that the Company is trying to disclose that only parts of the advances have been converted and that there are more conversions to come.

The Company is referring to the failure to include the terms for conversion in the Admission document as a misunderstanding, which according to the Company is seemingly based on the fact that the shareholder advances are booked as equity and not as a convertible due to different accounting principles for Cyprus and Norway. Hence the possibility to convert the advances was not sufficiently explained.

The Company confirms that there are no further outstanding conversions.

In attachment 1 to the Company's response, the Company also mentions that even Oslo Børs performed several reviews of the admission document and approved the listing on 11 January 2016, subject to a few outstanding topics. Furthermore, Oxy accepts criticism for not having included the conversion price in the admission document, but the Company claims that Oslo Børs should also take some responsibility for such potential errors to occur in the admission work. The Company emphasises that Merkur was a brand new trading platform and that the Company was under intense time pressure due to the "free listing offer" announced by Oslo Børs.

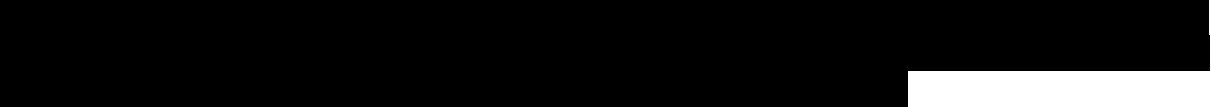
## 4.3 Repair offering

The Company decided on 25 July 2016 to invite all other shareholders not taking part in the conversion of Shareholder Advances in April 2016 to a repair issue with a maximum of 1.0 million new shares at the price of NOK 1.50,-. In the view of the Company the share subscription price offered to the other shareholders is extremely attractive bearing in mind the shareholders who contributed their advances at a much earlier stage in the Company's development. The size and the price of the repair issue were decided upon after careful studies of similar issues. The low subscription price was set to show Oslo Børs the Company's will and determination to ensure equal treatment of all shareholders. Additionally, the Company stresses that a removal from trading on Merkur Market will certainly not be in the best interest for the shareholders of the Company. The Company claims that shareholders who are now making further investments through the repair issue, will be stuck with unlisted and illiquid shares and the whole future fund raising they have invested in will fail.

#### **4.4 Other**

The Company also makes a point that they contacted their legal advisers in Cyprus to ensure compliance with Cypriot law when the conversions of the shareholder advances were completed in April 2016. In the opinion of the Company this reflects that the Company makes extra attempts to ensure it is acting correctly.

The Company focuses that putting a correct market value on the Company at pre- revenue stage is challenging. The Company states that the only investors having seen a budget from the company would be those participating at the listing ceremony on Oslo Børs on 13 January 2016. For those actually participating at the Company's presentation on 13 January 2016 the Company is still trading at approximately 1 times EV/EBITDA for 2018.



The Company argues there will be substantial damage made to the shareholders in the Company if the Company is removed from trading. This will leave the existing shareholders in a situation where they cannot buy or sell shares on a trading platform and normally the price per share will be trading substantially lower off such a platform. The Company does not find such a decision to be in the interest of the shareholders, in particularly not the minority shareholders. An example would be one of the largest shareholders of the Company, that have purchased shares after the listing at Merkur Market and their confirmation of being aware of the Shareholders Advances prior to their purchase of shares. Please see the Attachment 2 to the Company's response for details.

In their conclusive remarks the Company sincerely hopes that Oslo Børs will understand and accept that mistakes like this unfortunately happens for a Company with limited resources while working on a strict timeline, and they ask Oslo Børs for forgiveness.

### **5 Assessment by Oslo Børs**

As outlined above, Oslo Børs has identified breaches of the provisions of the Merkur Market rules. The evaluations relating to the Admission Rules are presented in section 5.1 of this document. Breaches relating to the Continuing Obligations are covered in section 5.2. Consequences of the breaches are further discussed in section 5.3.

#### **5.1 Admission Rules**

When companies are admitted to trading on Merkur Market they go through an admission process governed by the Admission Rules and consisting of the following main steps:

- 1) Submission of an application for admission to trading
- 2) Financial and legal due diligence
- 3) Meeting with the administration of Oslo Børs

- 4) Decision on admission to trading made by Oslo Børs' Listing Committee (the "**Listing Committee**").
- 5) Publication of an admission document
- 6) First day of trading

The Admission Rules have specific requirements for the application (step 1), the due diligence (step 2) and the admission document (step 5)<sup>2</sup>. The relevant requirements for steps 1, 2 and 5 are described further below.

The Listing Committee's decision to admit the shares of a company for trading on Merkur Market is primarily based on the company's fulfilment of the provisions of the Admission Rules. In order for the Listing Committee to take the decision on a factual and a well-informed basis it is essential that the information provided by the company and their advisers throughout the admission process is of a complete, precise and comprehensive nature so that all requirements for admission to trading may be evaluated as either fulfilled or deemed not applicable.

The main intention of the requirements in each of the steps referred to above is to secure access to all relevant information for Oslo Børs before the Listing Committee takes the decision to admit the shares of the company for trading on Merkur Market. Additionally, Oslo Børs will request any further information considered relevant for the decision to be taken by the Listing Committee which is not covered by the companies' response to the admission requirements in the first place. When relevant information is withheld or not presented, the decision to admit the shares for trading on Merkur Market is made on a misleading basis. Depending on the character of the information withheld, the consequences of Oslo Børs admitting shares to trading on a misleading basis might be severe for Merkur Market on a general basis and the market participants becoming involved with the share on Merkur Market.

In this particular case, the Conversions increased the number of ordinary shares in the Company by 6,000,000 new shares, from 2,600,000 shares to 8,600,000 shares outstanding. This is an increase of 230%. The new ordinary shares were issued in a price range from NOK 0.50 per share to NOK 1.17 per share, which represent a discount of 96.2% - 98.3% compared to the last trade in the share (NOK 31) before the announcement of the Conversions. The share has not been frequently traded, however all trades in the share before and after the conversion have been at approximately NOK 32 - with a corresponding order level. In other words, the share issues made in relation to the conversion of funds advanced has a significant discount compared to all relevant price parameters.

Information regarding these potential large share issues to be directed at the Company's two main shareholders at such a significant discount would have been relevant for the admission process, for the decision to be taken by the Listing Committee and of great importance for the rest of the market participants. Unfortunately this information was not provided to Oslo Børs in the admission process, even though the underlying agreements for the conversions were entered into years before the Merkur Market admission process was initiated. A smaller conversion of funds advanced was even carried out in December 2015 close to the Company's process towards Merkur Market, but the conversion agreements were not mentioned directly to Oslo Børs in the admission process.

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<sup>2</sup> Content requirements for the Admission Document are listed in Appendix A to the admission to trading rules.

Without access to this information it becomes impossible for market participants to calculate the market value of the Company correctly. In the Company response letter of 1 August 2016 the Company argues that one of the largest shareholders that purchased all of their Oxy shares after the admission to trading on Merkur Market confirms being aware of the Shareholder advances prior to their purchase of shares. Oslo Børs reads the attached confirmation from Temple Asset Management differently and concludes that Temple Asset Management only knew about the Shareholder Advances on the basis of the description in the admission document. This is in line with Oslo Børs' assumption that an investor would go through relatively new information presented in an admission document before investing in any Merkur Market company.

Oslo Børs would like to avoid any situation where the shares of a company are accepted for trading on a wrongful basis and where market participants do not have access to relevant information for the pricing of a company's shares. The information withheld was clearly in the hands of the Company throughout the admission process, and there were several opportunities to make the agreements a part of the basis for which the Listing Committee took its decision upon. Failure by the Company to do so, represents breach to several of the provisions governing the admission process, and each of the breaches are described in detail below in section 5.1.1 – 5.1.3.

#### 5.1.1 The Application for admission to trading on Merkur Market

On 18 December 2015, the Company initiated the application process for admission to trading on Merkur Market, and the formal application was submitted on that date, cf. the Admission Rules section 3.2 (the "**Application**"). In the period from 18 December 2015 and to the first day of trading, there was extensive communication about the fulfilment of the requirements for admission to trading between the company and the administration on Oslo Børs.

As mentioned above, the content of the application is subject to certain specific requirements. The content requirements considered relevant for the Advances Agreements are:

Admission Rules section 3.2.(4)	Content requirement
Item 12	Any material transactions that the company has entered into or [...] with close associates [...] that may be material to assessing the admission of the company to trading.
Item 15	Any options, warrants or loans <u>giving the right to require the company to issue shares</u> , and any subordinated debt or transferable securities issued by the company.
Item 16	Any possible increases in the share capital, distribution sales of shares etc. that the company expects to carry out.

Oslo Børs has not found any information in the application document about the agreements for the share conversions, despite of the abovementioned content requirements which are clearly relatable to such agreements.

In the application, the Company has presented other agreements in relation with the content requirements included above e.g. the WNF Convertible Loan Agreement and the ADD Investment Agreement, which both would increase the share capital of the Company and dilute the shareholding of

existing shareholders not being part of the agreements. The fact that certain selected agreements involving conversion of capital and share issues were presented in line with the requirements made it difficult for the Oslo Børs administration to identify that other relevant agreements were left out.

In an e-mail dated 6 January 2016, Oslo Børs requested a clarification from the Company regarding an agreement entered into between the Company and WNF classified as an "Investment Agreement" by the Company. In an e-mail dated 7 January 2016, the Company responded with the following (our translation):

*"This should have been a Loan Agreement, not an Investment Agreement. There are no Investment Agreements, other than the agreement with ADDInvest, but this will terminate upon listing on Merkur (...)."*

This specific request and the following response from the Company support Oslo Børs' impression that all relevant agreements were in fact disclosed.

In the Company's response letter as of 1 August 2016, no efforts are made to argue that relevant information about the conversion of shareholder advances were included in the Application for admission to trading.

In the view of Oslo Børs, the Advances Agreements would have been clearly within the scope of the content requirements for the Application, and, despite of specific requests these were not made part of Oslo Børs' evaluation of the Company based on the application process.

### **5.1.2 The due diligence process**

In connection with the process of admission to trading, a company shall carry out a limited scope financial and legal due diligence in accordance with the Admission Rules section 3.3 (1), in order to identify whether there are any matters of significance to assessing whether the shares are suitable for admission to trading. The legal due diligence shall inter alia cover whether the shares are validly issued, fully paid-up and freely transferable, material agreements that have been entered into and other material matters that may be of significance to the assessment of the company as an investment. There are also certain additional requirements to the due diligence related to evaluation of the company's management, distribution of information, due diligence on technical, commercial and financial matters as well as any other matter of significance. The financial due diligence shall inter alia cover the company's liquidity statement.

H&P Accountants carried out the financial due diligence, Demetris J. Eliades & Co LLC carried out the legal due diligence.

Oslo Børs received due diligence letters from the legal and financial due diligence advisers, dated 17 December 2015 and 18 December 2015 respectively. As Oslo Børs considered these letters insufficient with regards to the formal requirements for the due diligence, Oslo Børs requested additional information. Updated due diligence letters dated 28 December 2015 and 8 January 2016 were received. In addition, on 5 January 2016, a due diligence conference call regarding the Company was held between the financial and legal due diligence advisers and Oslo Børs covering the requirements pursuant to the Admission Rules section 3.3 (7).

The Advances Agreements were not covered by the due diligence investigations. In Oslo Børs' view, these would clearly have been within the scope of the due diligence and should therefore have been investigated by the due diligence advisors and reported to Oslo Børs under section 3.3 (7) of the Admission Rules. In the legal due diligence report, certain material agreements were covered, they were however not relevant for the Conversions. Similar to the application process, certain material agreements were presented and discussed without any indications of other material agreements relevant for Oslo Børs' assessment was left out.

The Company does not clarify in their response of 1 August 2016 on the background for the conversion agreements being left out. The Company confirms that the legal and financial due diligence advisors did not receive the Advances Agreements from the Company in the due diligence process, cf. the Company's e-mail of 16 August 2016.

The purpose of the due diligence in the admission process is primarily to get independent third party verification on the suitability for trading of the shares of the Company. As the content of the conversion agreements clearly would affect the market value of the Company, in the view of Oslo Børs the due diligence investigations were not sufficient to identify matters of significance to assessing whether the shares of the Company were suitable for admission to trading.

### **5.1.3 The Admission Document**

On 12 January 2016, the Company published an admission document in accordance with section 7 of the Admission Rules (the "**Admission Document**"). The admission document is subject to a separate approval process where specific content requirements must be fulfilled or deemed not applicable. A first draft of the Admission Document was received by Oslo Børs on 18 December 2015, and the final version was approved by the administration of Oslo Børs on 12 January 2016.

The funds advanced by the main shareholders were explicitly mentioned several places in the Admission Document. In the description of the issuer's cash flow it is stated that "*(...) the net cash used in operating activities was financed partly by funds advanced by shareholder advances for future capital increase and a convertible loan (...)*". Also, the shareholder advances were mentioned in the consolidated statement of changes of equity. In the historical overview of the Company's capitalisation and indebtedness, advances of EUR 500,000 have been disclosed and the overview of the historical changes in the share capital shows that a conversion of similar advances took place in December 2015. According to the response from the Company of 1 August 2016, the shareholder advances are referred to ten times throughout the document and the Company admits that the conversion price was not mentioned. Oslo Børs emphasises that no terms for the advances were described in the document.

Also, the information included only specifies the amounts of the Advances. Oslo Børs has not found any indication in the information provided that the Advances are convertible. Furthermore, no information about the terms for conversion of the Advances has been disclosed, nor has the relevant shareholders been identified.

In Oslo Børs opinion, the Advances Agreements, the relevant terms and the identification of the counterparties to the agreements is considered relevant to describe in relation to the following content requirements for the Admission Document:

<b>Appendix A</b>	<b>Content requirement</b>
Item 1.2	Responsibility statement: a declaration by those responsible for the admission document that [...] to the best of their knowledge, in accordance with the facts and contains no omission likely to affect its import
Item 4	Prominent disclosure of risk factors that are specific to the issuer or its industry
Item 16.4	A statement as to whether or not the issuer complies with its country of incorporation's corporate governance regimes (...)
Item 18.4	A description of any arrangements, known to the issuer, the operation of which may at a subsequent date result in a change in control of the issuer
Item 19	Related party transactions : transactions with related parties for the period covered by the historical financial information and up to the date of the Admission Document
Item 21.1.4	Share capital: The amount of any convertible securities, exchangeable securities or securities with warrants, with an indication of the conditions governing and the procedures for conversion, exchange or subscription
Item 21.1.5	Share capital: Information about and terms of any acquisition rights and/or obligations over authorised but unissued capital or an undertaking to increase the capital
Item 22	material contracts (other than contracts entered into in the ordinary course of business): A summary of each material contract to which the issuer [...] is a party, for the two years immediately preceding publication of the admission document. A summary of any other contracts which [...] contains any provision under which any member of the group has any obligation or entitlement which is material to the group as at the date of the admission document.

Below is a discussion of each of the items presented in the table and their applicability on the information regarding the Advances Agreements, including the terms for conversion and the counterparties.

**Item 1.2 (responsibility statement):** The responsibility statement is signed by the Chairman of the Board and the CEO of the Company. It is confirmed, that as of 12 January 2016, the information contained in the Admission Document was in accordance with the facts and contained no omissions likely to affect its import. In hindsight after the Conversions, it seems to Oslo Børs as the statement of responsibility is entered into on the wrong basis, and Oslo Børs considers that omissions likely to affect the importance of the Admission Document did certainly exist.

**Item 4 (risk factors):** On a general basis, Oslo Børs considers the disclosure of financial risk factors in the Admission Document as informative. The WNF Convertible Loan Agreements have been described, including the terms for conversion. The fact that another convertible instrument is seen as a relevant



financial risk factor makes it more difficult for Oslo Børs to find valid reason for the Company not to include the Advances Agreements in the risk factors.

The risk factors also mention the authorised share capital of 10,000,000 shares which enables the Company to complete private placements towards new investors or acquisitions using Ordinary Shares for payment, and if conducted in the future this type of transactions can have a dilutive effect.

The chapter on risk factors leaves the reader of the Admission Document with the impression that the only possible future dilution will come from conversion of the convertible loan or an increase in the share capital through a private placements towards new investors or acquisitions - which Oslo Børs considers as clearly misleading considering the dilutive Conversions completed in April 2016.

**Item 16.4 (corporate governance):** It is stated in the Admission Document that the Board of Directors follow the revised Norwegian recommendation for the Code of Practices for Corporate Governance and aims to ensure compliance with all essential areas of this recommendation in areas where this may not yet have been achieved, conditional upon any conflicts with the articles of the Company and Cyprus Companies law. An important chapter of the revised code of practice is equal treatment of shareholders and related party transactions. Oslo Børs considers the way the Conversions were handled as not in line with the recommendation and Oslo Børs is of the opinion that the reader of the document is again left with the wrongful impression of how the Company would act in such transactions.

**Item 18.4:** The Company confirms in the Admission Document that they are not aware of shareholders in position to control the Oxy Group alone or in partnership with other shareholders and the Company is not aware of any arrangements that may result in, prevent or restrict a change of control over the Company. Oslo Børs finds it difficult to understand on which basis the Company has made this confirmation when they clearly had knowledge about the Advances Agreements.

**Item 19:** The information in the Admission Document about related party transactions is limited. No specific transactions are mentioned and Oslo Børs has only found a short statement about accounting services for the Company and that one subsidiary has been provided by an accounting firm controlled by the chairman of the board. A failure to classify the Advances Agreements as related party transactions is very difficult for Oslo Børs to understand taking into consideration that the Advances Agreements entered into between WNF and the Company are signed by Mr. Beitnes representing both sides of the transaction. The Advances Agreement entered into with the CEO (and director) and the Company is signed by the CEO and Beitnes respectively. Oslo Børs consider both the CEO and WNF as related parties to the Company, and find the lack of information about the existence of the Advances Agreements as misleading.

**Item 21.1.4 and 21.1.5:** In the overview of historical share capital development it is briefly mentioned that one conversion of funds advanced took place in December 2015, however no further information is given. The ADD Investment Agreement, which may result in new share issuances, is also referred to, however this agreement is not relevant for the conversion of funds advanced. In the opinion of Oslo Børs the Company provides information on other financial agreements with a convertible element, without mentioning the favourable Advances Agreements for conversion of funds advanced by the two key shareholders.

In section 3.9.6 (Authorisations) of the Admission Document the Company also mentions the increased authorised share capital, giving the board of directors the right to issue additional shares within the maximum authorised share capital of ten million shares. It is specified that the Board's authorisation to issue new Ordinary Shares within the authorised Ordinary Shares is not subject to any time limits.

**Item 22:** Oslo Børs is of the opinion that the conversion agreements could be classified as material agreements for the Company, however no information is found in this section of the Admission Document regarding the Advances Agreement.

The information about the Advances Agreements could have been included on the basis of numerous specific content requirements, and Oslo Børs consider the failure to include highly relevant information for the market's ability to evaluate the company financially as a serious breach to the provisions of governing the admission document on Merkur Market.

In addition to the specific content requirements referred to above, the Admission Rules section 7(2) stipulates that:

*"The admission document shall provide a clear and comprehensive description of the company and the securities for which admission to trading is being sought in which the significant characteristics and risk factors associated with the company and its shares are clearly presented."*

Failure to include information in the admission document about the future 230% increase of the outstanding share capital at a 98% discount directed at the two main shareholders of the Company, based on agreements already entered into by the Company, makes the Admission Document an unclear and incomprehensible description of the Company and the securities for which admission to trading is being sought. Oslo Børs also finds it difficult to take a supportive view that the significant characteristics and risk factors are clearly presented in the Admission Document, as long as such information is left out. In total, Oslo Børs consider the Admission Document not in compliance with admission rules section 7 (2) referred to above.

In the Company's response as of 1 August 2016 the immense time pressure is focused on which the entire admission process including the admission document was carried out under as the primary reason for the failure to include the relevant information in the admission document. Oslo Børs acknowledges that the process probably was cumbersome for the Company, taking into consideration that the process was initiated relatively late in December 2015 and the Company faced several challenges<sup>3</sup> before the first day of trading on Merkur. All companies were incentivised with a "free listing", if they could make it to the opening day of Merkur Market, which created extraordinary pressure on the companies. However, it is important to keep in mind that Oxy Group PLC could have at any time decided to enter Merkur Market at a later point and paid the fee if they considered themselves not sufficiently prepared for the tight timeline. It is also important for Oslo Børs to mention that the free listing on the first day of trading initiative was communicated publicly at the same time to all involved parties and Oxy Group PLC was not disadvantaged to anyone else in this question. Overall, Oslo Børs does not consider that the time pressure can justify the failure to include sensitive information throughout all stages in the admission process which gave the Company numerous opportunities to present the required information.

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<sup>3</sup> Please see section 4.1 in this document for further details.

As mentioned in section 4.2, the Company argues in their response that Oslo Børs performed several reviews of the Admission Document and that Oslo Børs should take some responsibility for such potential errors to occur in the admission work on a brand new trading platform, when at the same time being under intense time pressure due to the “free listing offer” announced by Oslo Børs. Oslo Børs would like to point out that throughout the admission process in general and in the admission document in particular, the Company presented the terms of selected other financial securities and agreements leaving Oslo Børs with the impression that all relevant information was in fact presented. Further it is the responsibility of the Company to present all relevant information in an admission process, and as discussed above there were several requirements in all parts of the admission process which should have made the Company able to present the required information about the conversion of shareholder advances.

## **5.2 Oslo Børs’ evaluation of breaches of the Continuing Obligations**

### **5.2.1 Duty to disclose inside information**

As outlined above, the information about the Conversion Agreements and the terms for the conversion of advances was not communicated to the market in connection with the process of admission to trading.

Oslo Børs consider the content of the Conversion Agreements as inside information as defined in the Continuing Obligations section 3.1.1 (2):

*“Inside information shall mean any information of a precise nature relating to financial instruments, the issuer thereof or other circumstances which has not been made public and is not commonly known in the market and which is likely to have a significant effect on the price of those financial instruments or of related financial instruments.”*

The Advances Agreements entered into between the Company and the two main shareholders, including its terms for conversion, are of a precise nature and taking into consideration the discussion above about the Company not presenting sufficient information about the agreements in the Admission Document, the information would certainly not be commonly known in the market. Increasing the number of registered ordinary shares by 230% at a discount of approximately 98% to the two main shareholders of the Company is likely to have a significant effect on the price of the shares in the view of Oslo Børs.

As set out in section 3.2 above, companies admitted to trading on Merkur Market has an obligation to disclose inside information immediately and on its own initiative, cf. the Continuing Obligations section 3.1.1. This provision is deemed fundamental to ensure that the marketplace functions as intended, including by contributing to investor protection, correct price formation for securities and preventing market abuse. In Circular 1/2015 (Approved Rules for Merkur Market) it is explicitly stated that the provision will be applied in accordance with the same principles as apply to Oslo Børs and Oslo Axess.

As the information regarding the Advances Agreements was not disclosed to the market in the Admission Document, the Company entered Merkur Market with inside information not known to the market participants. The duty to disclose inside information applies to the Company from the first day of trading, cf. the Admission Rules section 4. As such, and in the view of Oslo Børs, the Company has been in breach of its duty to disclose inside information from the first day of trading on Merkur Market (13 January 2016).

On a general basis, a Company can claim delayed publication of inside information under the assumption that certain conditions are present, however Oslo Børs cannot see any of the conditions for claiming delayed publication were present in this case.

In the Company response as of 1 August 2016 it is not commented on if the company could have released the information which was not presented to Oslo Børs in the admission process in a stock exchange announcement from the first day of trading. Anyway, Oslo Børs maintains its view that the Company was subject to an obligation to release inside information immediately and on its own initiative which was not followed up.

### **5.2.2 Incomprehensible stock exchange announcements**

On 14 April 2016, after the closing of the market, the Company disclosed, the following stock exchange announcements (the “**Announcements**”):

#### **14.04.2016 19:22: Oxy Group Plc \_ Issue of 4,000,000 ordinary shares to WNF**

*On 11 April 2016 Ltd Oxy Group Plc, listed on the Merkur Market, issued 4,000,000 ordinary shares of nominal value of EUR 0.01 to The White November Fund Ltd at a share premium of EUR 0.04625 per share.*

*The White November Fund Ltd's shareholding after the issue is 4,734,997 ordinary shares, equal to 55.06% of the issued shares in Oxy Group Plc.*

#### **14.04.2016 19:24: Oxy Group Plc \_ Issue of 2,000,000 ordinary shares to Dimitar Dimitrov**

*On 12 April 2016 Ltd Oxy Group Plc, listed on the Merkur Market, issued 2,000,000 ordinary shares of nominal value of EURO.01 to Mr. Dimitar Dimitrov, Director in Oxy Group Plc at a share premium of EURO.115 per share.*

*Mr. Dimitar Dimitrov's shareholding after the issue is 3,165,000 ordinary shares, equal to 36.80% of the issued shares in Oxy Group Plc.*

The Announcements appear as short and incomprehensible. In particular, the Announcements are unclear on the conversion price as they are only referring to a share price premium. Further, the Announcements lack reference to the formal basis for the share issuance e.g. as a board decision etc. and the Advances Agreements are not mentioned. Also, Oslo Børs would expect clarification on if further similar conversions were to be expected. In Oslo Børs’ opinion, the market was not properly informed about the conversions through the Announcements and the market has since then been unable to fully evaluate the effects of the Conversions even after the release. However, to a certain extent the lack of information is repaired by the Company’s announcement of 4 July 2016 where an update on the announcements as of 14 April 2016 is given.

Section 9 of the Continuing Obligations specifies how companies should announce certain corporate actions. In section 9.4 it is stipulated that announcements regarding changes in share capital shall cover the amount of its new share capital and the total number of votes and shares issued. For foreign issuers, the company must also publicly disclose that the shares are validly and legally issued and fully paid up. Oslo Børs cannot see that the Company has complied with its obligations under this provision.

It is important that the companies ensure that the market gets full access in the communication of any situation representing inside information, and not just communicating selected parts of the sensitive information. That by itself might be misleading. In the opinion of Oslo Børs the information have been released in an incomprehensive manner, which did not fully equalize the inside information in the market. Hence, parts of inside information related to the conversion agreements are still not communicated to the market. Failure to communicate the complete inside information to the market is seen by Oslo Børs as a breach to the Continuing Obligations.

### **5.2.3 Equal treatment of shareholders**

Oslo Børs has considered the private placement in relation to the principle of equal treatment of shareholders as stipulated in the Continuing Obligations section 2.1. The provision contains a prohibition of differential treatment which is not justified on a factual basis in the common interest of the issuer and the shareholders. The rule is thoroughly addressed in Circular 2/2014, which particularly highlights the issues that may occur in connection with private placements. In circular 1/2015 (Approved rules for Merkur Market) it is stated that the principles set out in Oslo Børs Circular No. 2/2014 will normally be taken into account with regard to how the requirement of equal treatment is applied. In enforcing the equal treatment rule, Oslo Børs will take a cautious approach to allowing its own judgement to take precedence over the commercial judgement and industry-specific knowledge that provides the basis for the issuer's financial and operational targets. In applying this approach, Oslo Børs has in previous cases expressed the view that it will in principle not seek to re-examine the company's assessment of what constitutes a reasonable and factual basis, and will only act in cases where differential treatment clearly lacks a factual basis, is grossly unreasonable or has been carried out without proper consideration of the circumstances.

In Circular No. 2/2014 and former cases regarding the principle of equal treatment considered by Oslo Børs, it is stated that the test of a factual basis will apply more strictly if the issue of shares creates a financial advantage for the subscriber or subscribers at the expense of the company's shareholders by offering a significant price discount, or if the issue of shares causes a sizeable direct dilution of the rights of existing shareholders, particularly if this results in a change in the balance of power among the company's shareholders.

As described above, the Conversions increased the share capital of the Company by approximately 230%, and thereby resulted in a considerable dilution of the shareholders not participating in the share issuances.

The conversion prices of EUR 0.095, 0.155, 0.075, 0.065, 0.075 and 0.035, resulting in an average conversion price of approximately NOK 0.53 for the 6,000,000 million shares represented a 98% discount compared to the last trading price of the share on Merkur Market. The conversion prices were set in advance and appear from the agreements entered into between the Company and the relevant shareholders. In Oslo Børs' view, the discount is very significant compared to the trading price. The Company has informed us that the board of directors was not allowed to change the conversion price without breaching the agreement and the board could only decide on the timing of the conversions. In addition, the Company has never, since inception, been in a position to repay the advances to the shareholders.

As regards the background and rationale for carrying out the transaction, the Company has provided Oslo Børs with the underlying agreements for the conversion of the shareholder advances. According to information received from the Company, the Advances Agreements entered into with the shareholders were entered into at different stages of the Company's development phases in the early years of 2013, 2014 and 2015, and long before the Company got minority shareholders prior to its listing on Merkur Market in 2016.

Oslo Børs understands that the Advances Agreements have been entered into before the Company was admitted for trading on Merkur Market, and that the Company had certain obligations thereunder. However, as information regarding the Advances Agreements, including the conversion terms and the counterparties, was not disclosed to the market/investors during the admission process or through the Admission Document, the potential dilution was unknown for new potential investors in the Company.

In accordance with the terms of the Advances Agreements, the Company "may" convert the funds to equity within the conversion date being 31 December 2016. Based in the wording of the Advances Agreements, the board had the option to convert the Advances prior to 31 December 2016. In Oslo Børs' view, the board has actively resolved to exercise this option on the favorable terms to two of its existing shareholders, without any factual justification being provided.

The Company has argued that the advances had to be converted no later than 31 December 2016. If this was an obligation for the Company, compensational measures for the minority shareholders should have been considered by the Company.

Oslo Børs considers that the Conversion represented a breach of the Company's duty to equal treatment of shareholders.

The Company communicated on 4 July 2016 that they were considering carrying out a repair offering anyway, after having received a notice of consideration of removal from trading from Oslo Børs. The repair offering was confirmed on the 25 July 2016 and subscription period ended 15 August 2015. The repair offering had a maximum size of 1 million shares at the price of NOK 1.50. The repair offering was directed towards all shareholders in the Company as of 26 July 2016 except WNF and the CEO who got the shareholder advances converted in April. The Company announced on 16 August 2016 that 99.99% of the shares in the repair offering were subscribed for.

In the response letter the Company emphasizes that the repair issue price is extremely attractive for the shareholders and that the price level reflects the Company's will and determination to ensure equal treatment of all shareholders.

Oslo Børs is of the view that a repair issue several months after the conversions took place is questionable. Investors that were diluted and were not offered substantially discounted shares might have left their investment in Oxy Group PLC, and new investors that were not subject to unequal treatment may benefit from the repair offering months later. Still, a repair issue is considered positively by Oslo Børs even though the repairing effect would have been higher if it was carried out much closer in time to the Conversions. However, it is important to Oslo Børs to communicate that the main part of this document and our argumentation relates to the failure to present sensitive information relevant to the pricing of the Oxy share which is not rectified through a repair offering.

#### **5.2.4 Violation of good business practice**

According to the Continuing Obligations, section 2.2, all companies with shares admitted for trading on Merkur Market must employ reasonable business methods when trading in financial instruments. Further, conduct of business rules shall be observed in approaches addressed to the general public or to individuals which contain an offer or encouragement to make an offer to purchase, sell or subscribe for financial instruments or which are otherwise intended to promote trade in financial instruments.

As communicated above, Oslo Børs is of the opinion that inside information about the shares of the Company was actively withheld by representatives of the Company in the admission process and not disclosed before the conversion of advances was completed in April 2016. As a consequence market participants and the general public did not have access to all required information about the company and the share of the company was made available for trading in a public market on a misleading and inconsistent basis.

Oslo Børs finds it difficult to conclude that conduct of business rules were employed by the Company in the admission process.

The Company does not address this issue in their response letter as of 1 August 2016.

#### **5.3 Sanction**

Oslo Børs may impose sanctions or other consequences on Merkur Market companies in accordance with the Continuing Obligations section 12 if breaches to the Admission Rules or the Continuing Obligations are identified. The regime adopted for Merkur Market differs from that which applies to Oslo Børs and Oslo Axess.

Oslo Børs has decided to take action and impose sanctions on the Company for the breaches to the Admission Rules and breaches to the Continuing Obligations as described throughout this document. The choice of sanctions is decided based on several aspects:

Firstly, it is an important objective for Merkur Market to protect and maintain the integrity of the security market in general and to protect the integrity of Oslo Børs and Merkur Market in particular. The Company's failure to bring the Advances Agreements for Oslo Børs' attention, made Oslo Børs to base its decision to accept the Company's shares for trading on an incomplete basis.

Furthermore, the Company completed the admission process by making the Admission Document publicly available without any information about the terms for conversions and hence not informing the market about the future large dilution any investment in the Company would face.

Oslo Børs has implemented several steps in the Merkur Market admission process for the companies to bring in all relevant information for the decision to admit the shares of the company for trading, including a legal and financial due diligence. When relevant information is not provided in any of the procedural steps, Oslo Børs consider the repeated lack of information as increasingly serious. However in the end, there will always be an element of trust and good faith between Oslo Børs and the companies in any admission process when it comes to the question if all requirements for admitting the share of a company for trading should be deemed fulfilled or not. When the basis for such a good faith does not

prove fully existent, Oslo Børs consider the repeatedly withheld information as serious breaches to the provisions governing the admission process.

Furthermore, the content of the Advances Agreements is considered as inside information. The Company did not release the inside information without delay in accordance with the provisions of the continuing obligations. Any trade in the company's share from the first day of trading to 14 April 2016 would potentially have been entered into on the wrong basis without any indications of the already existing risk of a large number of new shares being issued to selected shareholders at a significant discount. Oslo Børs argues that when the market has not been granted access to such information, the pricing of the share is done on a misleading basis. Oslo Børs does not want to facilitate misleading pricing on any of our markets, including Merkur Market. It is of the highest importance for Oslo Børs to maintain the investors' confidence in the market in general and Merkur Market in particular. Consequently, Oslo Børs consider wrongful handling of inside information by any company as a serious breach to our provisions.

There are no previous sanctioning cases on Merkur Market, however Oslo Børs communicated in the Circular 1/2015 that a company's suitability for trading on Merkur Market among other factors is dependent on its ability give sufficient information for the market participants to determine fair market prices. In relation with the Conversions carried out by the Company in this particular case, Oslo Børs is of the opinion that the Company has failed to provide such sufficient information to the market place and the market participants, both in the admission process and after the share of the Company was made available for trading on Merkur Market. On this basis, Oslo Børs also questions the suitability for trading of Oxy Group PLC.

The Company has made certain efforts as described in section 4 of this document to rectify the breaches, in particular by carrying out a repair offering to all shareholders as 26 June, except, WNF and the CEO. On a general basis Oslo Børs consider this positively, but remains doubtful to the actual repairing effect as it is carried out months after the conversion took place. However, the lack of equal treatment of shareholders in relation with conversion of advances is only a limited part of Oslo Børs' concerns in this case. In Oslo Børs' perspective this case is primarily about the failure to present sensitive information, which Oslo Børs consider inside information, to Oslo Børs throughout the admission process, in the admission document, as well as the failure to disclose inside information after the company was admitted for trading. Oslo Børs acknowledges that the Company was under significant time pressure throughout the admission process, and that mistakes are made under such conditions, however we find it difficult to put much weight on this taking the seriousness of the breaches into consideration.

Based on the above, Oslo Børs considers that the Admission Rules and the Continuing Obligations are materially breached. Additionally the Company has proved unable to give sufficient information about a situation representing inside information for market participants to determine fair market prices of the shares available for trading.

As a consequence of the violations, removal of the Company's shares from trading on Merkur Market has been considered, cf. the Continuing Obligations section 12.1, but Oslo Børs has decided not to delist the Company. Oslo Børs has emphasized that the Company has carried out a repair offering which to some extent has ensured equal treatment of all shareholders.

After an overall assessment Oslo Børs has decided to impose a violation charge on the Company, cf. the Continuing Obligations section 12.3. Oslo Børs considers the violation so substantial that a maximum



violation charge of NOK 1,000,000 should be imposed. In this regard, the Company's financial situation has been taken into account.

Oslo Børs will emphasize that additional breaches of the Merkur Market rules may result in removal of the Company's shares from Merkur Market.

Oslo Børs has on 17 August 2016 passed the following decision:

*"A violation charge is hereby imposed on Oxxy Group PLC for material breaches of the rules for Merkur Market in an amount of NOK 1,000,000, cf. Continuing obligations of companies admitted to trading on Merkur Market section 12.3 (2) and (3).*

*The Company has not disclosed material information about conversion of shareholder advances to Oslo Børs in the admission process for Merkur Market. Information about the conversion of shareholder advances is only to a limited and incomprehensible extent included in the Company's admission document. The Company has not disclosed inside information about the conversion of shareholder advances before the announcement of 14 April 2016.*

*The decision may be appealed to the Merkur Market Appeals Committee, cf. section 14 of the Continuing obligations of companies admitted to trading on Merkur Market."*

Appendices:

- Appendix 1: Company response letter to Oslo Børs dated 1 August 2016, including two attachments
- Appendix 2: E-mail from Oslo Børs to Company (lawyer) dated 12 August 2016
- Appendix 3: E-mail from Company (lawyer) to Oslo Børs dated 16 August 2016