

DIFFERENCES BETWEEN A PRIVATE COMPANY (WITH SHARES REGISTERED WITH EURONEXT SECURITIES OSLO (VPS)) (AS) AND PUBLIC LIMITED LIABILITY COMPANIES (ASA)

The most essential differences between private limited liability companies (with shares registered in Euronext Securities Oslo (VPS)) and public limited liability companies are as follows:

1. Transferability of the shares of the company

- (a) Private limited liability companies' shares cannot be admitted to trading on Euronext Oslo Børs or Euronext Expand
- (b) There is no legal requirement that the shares of a private limited liability company are registered with a central securities depository such as Euronext Securities Oslo (VPS).
- (c) Shares in public limited liability companies are in principle freely transferable. In private limited liability companies the main rule is the opposite: Consent by the Board of Directors is required for purchase of shares in the company, and the shareholders have a right of first refusal unless the articles of association stipulate otherwise. Philly Shipyard has proposed to keep its shares freely transferable after a conversion to a private limited liability company.

2. General meeting, Board of Directors and general manager

- (a) In public limited liability companies, both genders must be represented on the Board of Directors. For a private limited liability company the gender balance requirements only apply if the company meets certain threshold values. Philly Shipyard is not expected to meet the current thresholds for such requirements until final liquidation.
- (b) Public limited liability companies are required to have a Board of Directors with minimum three board members and a general manager. Private limited liability companies may have a Board of Directors consisting of one member, and there is no requirement to have a general manager.
- (c) In the articles of association of a private limited liability company it can be determined that the board members serve indefinitely. In a public limited liability company, the maximum service period is four years.
- (d) The general manager of a public limited liability company must make a statement to the Board of Directors of the company's activities, position and profit/loss development at least every month, while it is sufficient that a similar report is provided every fourth month in private limited liability companies. Private limited liability companies without a general manager are not required to make such statements.
- (e) In a listed public limited liability company, the Board of Directors must prepare a separate statement about determination of salary and other remuneration to the senior employees and Board of Directors. This statement and any material amendments must be dealt with by the company's general meeting, and at least every four years. Corresponding rules do not apply for private limited liability companies.
- (f) In a listed public limited liability company, the Board of Directors shall ensure that a report of the salary and other remuneration to the general manager and management

for every financial year is made. The report must be checked by the company's auditor before it is discussed by the general meeting and then made publicly available. Corresponding rules do not apply for private limited liability companies.

- (g) The notice period for general meetings is 14 days for private limited liability companies with shares registered in the Euronext Securities Oslo (VPS) and non-listed public limited liability companies. Whereas the applicable notice period for listed public limited liability companies is 21 days.
- (h) For public limited liability companies and private limited liability companies with shares registered with Euronext Securities Oslo (VPS), the shareholder must be registered as a shareholder five business days before the general meeting to participate and vote at the general meeting.
- (i) Owners of nominee-registered shares in both public limited companies and private limited companies with shares registered with Euronext Securities Oslo (VPS) must submit an advance notice of attendance to the company. Unless the board has set a shorter deadline, this notice must be received by the company no later than two business days before the general meeting. The company may stipulate in its articles of association that the requirement for advance notice applies to all shareholders.
- (j) Private limited liability companies are allowed to use a simplified process when convening a general meeting, exempting the company from certain requirements related to notice and convening of the general meeting. The Public Limited Liability Companies Act has no corresponding provisions.
- (k) The general meeting of private limited liability companies may, on certain terms, decide that the company's accounts shall not be audited pursuant to the Norwegian Audit Act. The same does not apply to public limited liability companies. Some public companies listed on a regulated market shall in addition appoint an audit committee, which is not a requirement for private companies.

3. Capital increases and financial instruments

- (a) Public limited liability companies may offer subscription of shares to the general public, whereas private limited liability companies only can offer subscription of shares to shareholders and specifically identified persons.
- (b) In a public limited liability company, the general meeting can authorise the Board of Directors to fix the subscription price in share issues and issues of convertible loans. In private limited liability companies, the subscription price must always be fixed by the general meeting. The general meeting of both private limited liability companies and public limited liability companies may provide the Board of Directors with a proxy to increase the share capital or issue convertible loans.
- (c) Public limited liability companies are subject to stricter rules on contributions in kind, and transactions between the company and its shareholders, as compared to private limited liability companies.
- (d) In private limited liability companies, the general meeting may resolve that payment of proceeds from capital increases may be made directly to the company's general accounts, and that the proceeds can be used by the company prior to registration of the capital increase. The general meeting of a public limited liability company does not have the same possibility.

- (e) If a private limited liability company issues subscription shares or a convertible loan with associated subscription rights, the subscription right cannot be separated from the loan. A public limited liability company may resolve that the subscription right shall be separated from the loan.

4. Authority to acquire treasury shares

- (a) Public limited liability companies may not hold own shares with a nominal value that exceeds 10 per cent of the total share capital in the company. The Norwegian Private Limited Liability Companies Act only requires that a private limited liability company's share capital, less the nominal value of own shares held, shall be at least NOK 30,000.

5. Minority protection

- (a) Pursuant to the Private Limited Liability Companies Act, a purchaser of shares may, on certain terms, require the company to redeem the shares if the company refuses to give its consent to the acquisition. Shareholders of a public limited liability company do not hold such right.
- (b) The Norwegian Private Limited Liability Companies Act provides minority shareholders, on certain conditions, a right to exit the company and the company may, on certain conditions, require minority shareholders to exit the company.
- (c) If a provision on redemption of shares is implemented in the articles of association, the Board of Directors of a private limited liability company may, on certain terms, resolve the relevant capital reduction. Boards of public limited liability companies are restricted from doing the same. In addition, the Public Limited Liability Companies Act has a separate provision on allocation to a share premium account, which does not exist in the Private Limited Liability Companies Act.
- (d) The Public Limited Liability Companies Act provides a right of redemption of minor shareholdings on certain conditions. Such redemption requires the permission of the Ministry of Trade, Industry and Fisheries.
- (e) Certain minority rights, e.g. the right to require a general meeting to be convened, may in public limited liability companies be exercised by shareholders representing 5 per cent of the share capital, whereas for private limited liability companies the threshold is 10 per cent.
- (f) In a public limited liability company, shareholders representing 5 per cent of the share capital may require the district court to appoint a person to open a general meeting.
- (g) In listed public limited companies, significant agreements (agreements in which the company's performance has a real value that exceeds 2.5% of the balance sheet total) with a related party must be approved by the general meeting. When voting on whether to enter into the agreement, the related party may not vote for its own shares.

6. Rights and obligations pursuant to the articles of association

- (a) Upon change of ownership of shares in a private limited liability company, the seller may exercise its rights as a shareholder if these have not been transferred to the acquirer yet. Upon change of ownership of shares in a public limited liability company, the seller's right to vote may lapse if the seller no longer has a real interest in the company. The acquirer and the seller may however agree that the seller may exercise its rights until these are transferred to the acquirer.

- (b) If a private limited liability company has several classes of shares, it may be implemented in the articles of association that a shareholder shall, upon a capital increase, only have priority rights to shares within the class of shares that the shareholder already holds shares in. The same may be implemented in the articles of association of a public limited liability company as long as the difference between the classes of shares is related to voting right, right to dividends or rights in regard to distribution of company assets upon a liquidation.
- (c) Voting restrictions set out in the articles of association of a public limited liability company are subject to approval from the Ministry of Trade, Industry and Fisheries if the shares without voting rights or shares with reduced voting power constitute more than half of the company's share capital. Similar restrictions do not apply to private limited liability companies.

7. Mergers and demergers

- (a) For public limited liability companies, mergers and de-mergers must be notified to the Registry of Business Enterprises, and a publication notice to this respect is required at least one month before the general meeting may pass upon the merger or de-merger. Private limited liability companies are not subject to similar restrictions.
- (b) There are generally stricter procedural rules for mergers involving public limited liability companies.

8. Share capital decreases

- (a) In share capital decreases in public limited liability companies the auditor must confirm that the company after the decrease has full coverage for the tied equity. In private limited liability companies, the auditor is not required to confirm this.

9. Certain other key differences

- (a) Private limited liability companies must have a share capital of minimum NOK 30,000, whereas the minimum share capital of public limited liability companies is NOK 1,000,000.
- (b) Only shares that are registered in a central securities depository may be held through a nominee.
- (c) The articles of association of a public limited liability company must state the number of board members the company shall have and which matters that shall be dealt with at the annual general meeting. The articles of association of a private limited liability company does not need to regulate the same.
- (d) Listed public limited liability companies are always required to prepare a statement on corporate governance and a sustainability report. For private limited liability companies these requirements only apply if the company is regarded as a "large enterprise" under the Accounting Act (Nw. regnskapsloven) or the Norwegian Transparency Act (Nw. åpenhetsloven). Philly Shipyard is not expected to meet these thresholds following conversion to a private limited company and will therefore not be required to prepare such reports.
- (e) Listed public limited liability companies may only use electronic communication when the shareholder has expressly consented. For unlisted public limited liability companies and private limited liability companies, the Board of Directors may decide whether communication will be physical or electronic (or a combination). There may

however be technical limitations reducing the company's actual possibility to communicate with its shareholders electronically as long as the company's shares are registered in Euronext Securities Oslo (VPS).

- (f) For public limited companies, the processing time in the Norwegian Register of Business Enterprises (Nw. Foretaksregisteret) is generally one business day. For private limited companies, the standard processing time is 1-3 weeks.