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Ref. emm

J.no. 601- 0181

Request for access to information regarding GXG Markets A/S

The Danish Financial Supervisory Authority (FSA) has received your letter dated November 2, 2015 as a successor request to your previous request of 21st of September 2015. In your letter dated November 2, 2015 you request for Administrative files regarding GXG Markets A/S, including files regarding the documentation related to the voluntary relinquishment by GXG Markets A/S of its Danish operator license effective as of 18th August 2015 and collateral materials and files that may be disclosable.

**DANISH FINANCIAL
SUPERVISORY AUTHORITY**
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Your request is made on behalf of European Capital Venture PLC who was listed on the GXG First Quote¹ until the voluntary relinquishment by GXG Markets A/S of its Danish market operator licenses.

MINISTRY OF BUSINESS AND GROWTH

Decision

The FSA cannot accommodate your request on behalf of your client European Capital Venture PLC for further files regarding documentation related to the voluntary relinquishment by GXG Markets A/S of its Danish operator license effective as of 18th August 2015.

Grounds

In accordance with section 9(1) of the Public Administration Act (Forvaltningsloven) a party to a supervisory case can demand to be informed of the documents in the case.

It is implied in section 84b in the Securities Trading Act, who is a party in relation to the FSA. It is implied in the provision that as a party in relation to the FSA is regarded only companies covered by section 7(1) in the Securities Trading Act, a designated payment system, the securities dealer, an approved foreign clearing centre, the account holding institution or the issu-

¹ GXG First Quote was a multilateral trading facility, cf. section 40 of the Danish Securities Trading Act, operated by GXG Markets A/S

er of securities which a decision made by the FSA concerns, cf. however subsections (2) and (3), that contains a list of who can in addition to subsection (1) be considered a party in relation to the FSA.

It is the view of the FSA, that your client is not considered to be a party in the specific supervisory case, and therefore your client does not have right of access to information according to section 84b in the Securities Trading Act. Your client is therefore not entitled to files related to the voluntary relinquishment by GXG Markets A/S of its Danish operator license effective as of 18th August 2015 and collateral materials according to the Public Administration Act (Forvaltningsloven).

In accordance with the Act on Public Access to Documents in Administrative Files (Offentlighedsloven) section 7(1), anyone can with the exceptions, mentioned in section 19-35 in the Act, demand to be informed of the documents that have been part of or drawn up by a regulatory authority in the course of administrative case work in connection with its business. A regulatory authority can give access to information/documents to a further extent according to section 14 in the Act, unless other follows from rules on professional secrecy etc.

In accordance with the Act on Public Access to Documents in Administrative Files section 9(1), a request for access to informations/documents must indicate the documents and the case, the person in question wishes to be informed of.

According to section 35 in the Act on Public Access to Documents in Administrative Files, the duty to give access to information is limited by the rules on professional secrecy that are laid down with legislative measures for persons who operate in public duty.

It is implied in section 84a (1) in the Securities Trading Act cf. Consolidated Act no. 831 of 12th June 2014 with later modifications, that employees of the FSA are obliged to keep secret any confidential information they receive in the course of their supervisory duties.

The professional secrecy of the FSA is a special obligation to observe secrecy. The admission to access to information is therefore limited in relation to general provisions cf. section 35 in the Act on Public Access to Documents in Administrative Files.

The special obligation to observe secrecy is reasoned by a number of specific considerations. The superior consideration is the FSA's possibility to have an effective supervision with the companies. It is crucial that companies can give information to the FSA in assurance that the information will

not be passed on. This is particularly important as the FSA can request for all the information the FSA finds necessary.

The provision in section 84a(1) in the Securities Trading Act, results in that the FSA cannot give access to information to a further extent than after section 7(1) in the Act on Public Access to Documents in Administrative Files, as the possibility to give further access (Meroffentlighed) after section 14 in the Act on Public Access to Documents in Administrative Files is limited by the obligation to observe secrecy.

Guidance of appeal

This decision can, no later than 4 weeks after the decision is received, be brought before the Danish Commerce and Companies Appeals Board, Dahlerups Pakhus, Langelinie Allé 17, PO Box 2000, 2100 Copenhagen Ø, tlf. + 45 41 72 71 45, cf. section 88 (1) in the Securities Trading Act. It is free to appeal a refusal to right of access to information.

Final remarks

It follows from your letter dated November 2, 2015, that you regard the Danish FSA as a “delegating authority” under section 83 (a), subsection 1 of the Securities Trading Act, and that GXG Markets A/S operated a “regulated stock exchange until August 18, 2015 and under powers of delegation from Finanstilsynet”.

The Danish FSA would like to clarify that GXG Markets A/S was authorized in accordance with section 8 of the Securities Trading Act to operate the regulated market GXG Official List. Furthermore, GXG Markets A/S was authorized in accordance with section 17 of the Securities Trading Act to operate the multilateral trading facilities GXG First Quote and GXG Main Quote as ancillary activities to the operation of the regulated market.

Therefore, the FSA would like to emphasize that the FSA has not delegated any of the powers mentioned in section 83 (a), subsection 1-5 of the Securities Trading Act to GXG Markets A/S. Hence, GXG Markets A/S did not operate its trading venues under any delegation from the Danish FSA.

Best regards

Emma Meersohn
special advisor