

International Comparative Legal Guides



Fintech 2021

A practical cross-border insight into fintech law

Fifth Edition

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1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market, including in response to the COVID-19 pandemic. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications)?

The following are types of fintech businesses active in Norway:

- Nets is one of the largest and most successful fintech companies in Norway and delivers innovative payment solutions to Norwegian businesses. Nets agreed in 2019 to sell its account-to-account based payments business to Mastercard (see below).
- Vipps AS (owned by a consortium of Norwegian banks, with DNB Bank ASA as the majority owner) offers mobile application payment services. Vipps has been offering swift and simple solutions for carrying out P2P transactions in Norway since 2015. Since the beginning of 2015, its business has evolved rapidly, with an important milestone being a merger in 2018 with the Nordics' two largest market players within card payment services and digital identify solutions, BankAxept and BankID, respectively. The merged company has recently launched invoice payment, in-store payment and e-commerce payment services as part of its strategy to simplify payments through innovation and technology.
- Payr is a Norwegian fintech company offering a personal finance app which assists its users with managing bill payments and finding the best possible offers from providers of various services (including power, telephone, insurance and banking services).
- Spiff, Kron, Dreams and Harvest Funds are some of the largest independent providers of mobile applications for personal savings and investments without regard to the users' income. They strive to be easy to understand and put the customer directly in charge of his/her savings and investment strategy via smartphone, tablet or PC. Similar offerings from established bank groups include the apps Spare (owned by DNB Bank ASA) and Smartspar (owned by the Eika group).
- Several crowdfunding platforms have been established in recent years. Examples of crowdfunding platforms for businesses, especially within the SME segment, include

Monner, Funding Partner and Kameo, whereas companies like Perx and Kredd operate crowdfunding platforms for consumer loans. There are also a number of reward-based crowdfunding platforms in the Norwegian market, such as Spleis and bidra.no.

- Several Norwegian banks have launched new and innovative fintech solutions on the back of their existing banking licence and infrastructure. One such example is Bulder Bank which is a digital, fully automated banking offering from Sparebanken Vest.
- Quantfolio is a Bergen-based fintech company delivering 'AI-in-a-box' components for banks and wealth managers with a digital presence. The company is partially owned by Sbanken (formerly Skandiabanken).
- Cloud Insurance is a Software-as-a-Service (SaaS) for insurance companies, agents and brokers, and is, according to the company itself, already in use in over 20 countries across five continents. The company's aim is to provide the insurance industry with a leaner, customer-focused and fast-moving way of doing insurance business.

In 2021, several fintech companies formed Fintech Norway, an organisation aiming to further the interests of Norwegian fintech companies. At the time of writing, companies such as Neonomics, Bill Kill, Horde, ZTL, Nøffe, Zdata, Tink, GoScore and Fauna og Aera are members of Fintech Norway.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

Not in particular. However, the Norwegian regulatory environment presents a challenge to several fintech businesses due to strict licensing requirements for the conduct of 'financing activities'. To this end, an initiative has been made to set up a 'regulatory sandbox' in Norway, the purpose of which is to enable fintech start-ups to test their innovative products, technology and services on a limited number of customers under close supervision by the Norwegian Financial Supervisory Authority. Prevailing licensing requirements will apply accordingly within the sandbox, but the regulator may ease certain requirements based on a principle of proportionality if the relevant legal framework is open to exemptions. See further details about the sandbox in question 3.3 below.

Trading in cryptocurrency is subject to AML requirements; see question 4.5 for further information.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

Albeit small on a global scale, the Norwegian start-up scene has experienced a rapid growth in recent years. This is most likely a result of both the continuing global interest in innovation and expectations of growth in the tech industry, as well as the dramatic drop in crude oil prices since the summer of 2014, which cost thousands of jobs in the oil industry. The redundancies created by the oil crisis pushed several well-qualified members of the workforce into new ventures, while investors deterred by losses in the oil sector looked elsewhere for suitable investment opportunities.

Traditionally, Norwegian start-ups have funded themselves through a combination of private capital and bank loans. Norway has a relatively small base of significant private investors, and the Norwegian venture capital scene is still in its early days. The ‘angel investor’ base has grown in recent years, and as a result, start-up equity funding has become more accessible. There are several ongoing initiatives to further develop the Norwegian angel investor scene, such as the ‘Angel Challenge’ by Startup Norway where investors can participate with as little as NOK 50,000 each.

However, banks and governmental agencies are still the most important sources of funding for emerging companies in Norway, and a number of new initiatives have been taken in recent years. By way of example, Norway’s largest bank, DNB Bank, has launched ‘DNB NXT Accelerator’ together with StartupLab in order to promote fintech innovation, and Finstart Nordic, which is a fully owned subsidiary and the innovation arm of SpareBank 1 SR-Bank, claims to be the largest fund and start-up factory within fintech in the Nordics with NOK 300 million under management. On the public side, Innovation Norway plays an important role as the Norwegian Government’s primary vehicle for supporting innovation and development of Norwegian enterprises and industry. Innovation Norway provides support to start-ups and growth companies in the form of funding, advisory services, networking opportunities and other resources. Further, the Government-funded venture capital fund Investinor is one of Norway’s largest venture investors with more than NOK 4.2 billion under management and more than 60 companies currently in its portfolio. In April 2017, the fund facilitated the first listing of one of its portfolio companies when BerGenBio ASA, a biotech company, was listed on the Oslo Stock Exchange. Following this, the fund has facilitated two further listings of its portfolio companies, namely the listings of the pharmaceutical company Calliditas Therapeutics AB on Nasdaq Stockholm in June 2018 and Nasdaq New York in June 2020, with a subsequent sale of most of its shares in November 2020, and the tech-company poLight ASA on the Oslo Stock Exchange in October 2018. In April 2020, the Norwegian Government allocated NOK 1 billion additional funding to Investinor as part of the Government’s COVID-19 financial assistance package to Norwegian start-ups and growth companies.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

Norway has enacted two incentive schemes to attract more investments to the start-up sector. The first scheme allows

investors to claim a deduction for equity investments in start-up companies against their taxable income. The other scheme allows employees of start-ups who receive share options as part of their remuneration to defer taxation of such options so that they are not taxed on their gains when the options are exercised, but rather at the later point in time when the shares received from the option are sold. Unfortunately, both of these incentive schemes are quite narrow in scope and have been widely criticised. In a recent policy document, the Government has signalled that it intends to strengthen the incentive scheme for employee’s share options to make it more attractive.

Further, in response to the COVID-19 pandemic, the threshold amounts for equity investment deductions has been raised and the scope of eligible participants has been somewhat expanded with effect for the income years 2020 and 2021.

Norway currently has a wealth tax rate of 0.85%. The wealth tax only applies to individual taxpayers who are tax resident in Norway. For shares, only 55% of the market value shall be calculated for wealth tax purposes, which would also apply for share investments in venture capital.

Norwegian corporate investors (i.e. limited liability companies and similar entities) in Norwegian businesses organised as limited liability companies and similar entities, including tech/fintech businesses, would be exempt from taxation on any gain from such investments under the participation method. Three per cent of the dividend would be taxed as ordinary income with a rate of 22% (25% for financial enterprises), giving an effective tax rate on dividends of 0.66% (0.75% for financial companies). If the investing company owns more than 90% of the share capital and the voting rights, no tax will be levied on the dividends.

Foreign investors are not subject to Norwegian taxation on gains from investments in Norway, unless such investments are made in connection with business activities carried out or managed from Norway. Dividends to foreign investors are subject to a Norwegian withholding tax at a rate of 25%, unless the recipient qualifies for a reduced rate according to an applicable tax treaty.

Foreign corporate investors (i.e. limited liability companies and similar entities), which are genuinely established and carry out genuine economic activities within the EEA, are not subject to Norwegian withholding tax under the participation method.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

Companies seeking a listing of its shares on the Oslo Stock Exchange must satisfy the stock exchange’s criteria for listing, the most important of which are as follows:

- the company’s shares must be assumed to be of public interest, be freely transferable and likely be subject to regular trading;
- at the time of listing, the market value of each share must be at least NOK 10 and the total market value of the shares to be listed must be no less than NOK 300 million;
- at the time of listing, the company must have at least 500 individual shareholders each holding shares worth at least NOK 10,000, and a minimum of 25% of the company’s shares must be held by the general public;
- the company must demonstrate that it has a satisfactory equity capital and sufficient liquidity to continue its operations for at least 12 months after listing;
- the company must have at least three years’ operating history, and must have produced annual, audited accounts for at least three years prior to the application for listing; and
- the company’s board of directors and management must meet applicable suitability requirements. At least two of the

directors must be independent of the company's management, larger shareholders and material business contacts.

If some of these criteria are not met, the company seeking an IPO may decide to apply for a listing at Euronext Expand instead. Euronext Expand is a marketplace for small cap companies and has less strict requirements for listing. It is operated by the Oslo Stock Exchange.

Finally, companies who do not qualify for a listing on either the Oslo Stock Exchange or Euronext Expand may apply to become listed on Euronext Growth, an MTF operated by the Oslo Stock Exchange.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

There have not been any notable IPOs in the Norwegian fintech scene to date. However, there have been several acquisitions and consolidations of various scales, the most notable of which are the co-investment by more than 100 local Norwegian banks in DNB Bank's mobile payment platform Vipps (which consolidated Vipps' position in the Norwegian payments market and led to the exit of Mobilepay from Norway in late 2017), the merger of Vipps, BankAxept and BankID in 2018, and the disposal by Nets of its account-to-account payments business to Mastercard, which was announced in August 2019.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

'Fintech' is not a regulated activity in itself. However, Norwegian legislation imposes a licensing requirement on, among other things, the following activities and services:

- Financing activities.
- Insurance business.
- Deposit-taking.
- Payment services and e-money.
- FX business (spot trading in foreign exchange).
- Investment services and activities.

The licensing requirements for the abovementioned services may present a challenge for fintech start-ups intending to market their products and services to customers in Norway. By way of example, the definition of a licensable 'financing activity' includes 'the intermediation of credit and guarantees, or other participation in the financing of business other than one's own'. Clearly, this is a rather wide definition which can capture a wide array of fintech-related activities. As further discussed in question 3.3 below, a 'regulatory sandbox' has been established in Norway in order to boost fintech innovation notwithstanding the strict regulatory environment, as well as to serve as a useful tool for the Norwegian regulator to gain insight into such businesses and the challenges they face.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

Providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers are subject to AML requirements, including registration and supervision by the Norwegian Financial Supervisory Authority. Please refer to question 4.5 for further details.

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

In a letter dated 12 November 2018, the Norwegian Ministry of Finance mandated the Norwegian Financial Supervisory Authority to establish a regulatory sandbox for the fintech industry before the end of 2019. The purpose of the sandbox is to give new fintech businesses, who often have limited knowledge of the vast regulatory framework and supervision to which the financial industry is subject, a better understanding of the requirements which apply to their business. To this end, the sandbox is meant to provide for testing under close supervision by the Norwegian Financial Supervisory Authority and more proportional regulatory requirements. The expectation is that a regulatory sandbox will better the prospects of new innovative services entering the market scene, as well as give the supervisory authorities a better understanding of the challenges connected with new technology and business models.

Businesses must apply to the Norwegian Financial Supervisory Authority and must meet certain eligibility criteria in order to qualify for participation in the sandbox. A project will be eligible for testing in the sandbox if it is subject to financial regulation, is genuinely innovative and is expected to be beneficial to consumers or the financial system as a whole. Furthermore, the sandbox will only be open to projects which are dependent on testing in order to realise their business goals. Applicable licensing requirements for the business will apply accordingly in the sandbox, but the regulator may ease certain requirements based on a principle of proportionality to the extent that the prevailing regulatory framework allows exemptions.

The sandbox was established and opened for applications by the end of 2019. By December 2020, out of a total of 12 applicants, two projects had reportedly participated in the sandbox, namely Quesnay AS, a company providing compliance (client management lifecycle) solutions to the banking and finance industry, and Sparebank1 SR-Bank. The deadline for the second round of applications to participate in the sandbox was 22 January 2021.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

Other than the licensing requirements and limited access to participate in the regulatory sandbox, both mentioned above, there are no particular regulatory hurdles applicable to fintech businesses attempting to access new customers in Norway.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/ transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

The collection, use and transmission of personal data is regulated by the Norwegian Personal Data Act (the Act), implementing the General Data Protection Regulation (EU) 2016/679 (GDPR). The Act came into effect on 20 July 2018 and contains certain national specific rules supplementing the GDPR.

The old Personal Data Act and Regulation stated that financial institutions must have a personal data licence in order to handle their customers' personal data. Under the Act, this is no longer a requirement.

The new Act introduces a new obligation for companies to perform a data protection impact assessment (DPIA) before carrying out processing activities that are likely to result in high risk to individuals' 'rights and freedoms'. The reference to the 'rights and freedoms' of the data subjects primarily regards the rights to data protection, privacy and other fundamental rights. Use of new technology can trigger the need to carry out a DPIA and thus fintech companies can be subject to this obligation for certain processing activities.

A fintech company obligated to perform a DPIA must also consult the Norwegian Data Protection Authority prior to processing where a DPIA indicates that the processing would result in a high risk in the absence of measures taken to mitigate the risk.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

The Act applies to undertakings and physical persons established in Norway, where personal data is processed in the context of the activities of such establishment. This means that neither the nationality or place of residence of the data subject nor the physical location of the personal data are decisive.

The Act also applies to those not established in the EEA when they process personal data about data subjects in Norway in connection with the offering of goods or services, or monitoring their behaviour within Norway.

The Act allows for international transfer of data within the EEA area. Furthermore, personal data may be transferred internationally to countries approved by the European Commission, by using the EU's standard contractual clauses, or on the basis of Binding Corporate Rules. Pursuant to the CJEU's Schrems II decision, in addition to these safeguards, the law and practices of the third country must be assessed and appropriate supplementary measures must be implemented where needed. If such supplementary measures do not sufficiently ensure that the transferred personal data enjoys an essentially equivalent level of protection as in the EU, the international transfer is not allowed. As such, the abovementioned safeguards do not alone provide sufficient basis for international transfers. Besides this, international transfer of data to third countries may take place by applying to the Norwegian Data Protection Authority. The applicant must, among other things, guarantee that the data will be adequately protected. As a result of the Schrems II decision, the EU-US Privacy Shield framework is no longer a valid safeguard for transfers to the US.

Due to the withdrawal of the United Kingdom (UK) from the European Union (Brexit), a temporary regulation entered into force on 1 January 2021 (FOR-2020-12-30-3195), which stipulates that transfer of personal data to the UK is not considered transfer of personal data to a third country, and consequently allows for international transfer of data to the UK. The temporary regulation is a result of the EU-UK Trade and Cooperation Agreement, and will be in effect for a minimum period of four months and a maximum period of six months. The legal situation after the expiry of the temporary regulation is currently unclear, and there is a possibility that implementation of GDPR safeguards will be necessary for continuation of transfers to the UK.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

The Norwegian Data Protection Authority may issue an administrative fine for violation of the provisions set out in the Act. Administrative fines are, however, not applicable automatically, but imposed on a case-by-case basis. Non-compliance with the provisions of the Act may be subject to administrative fines of up to EUR 20 million, or in the case of an undertaking, up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher.

The Data Protection Authority may also take a range of additional actions in the event of infringements of the Act, such as issue warnings or reprimands, order that the processing of personal data in violation of the provisions of the Act shall cease, or they may impose conditions which must be met in order for the processing to be compliant with the Act. Administrative fines can be imposed in addition to or instead of the said measures. The Data Protection Authority may impose a daily fine for each day of non-compliance with the order (subject to applicable grace periods).

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

There is currently a regulation on the use of information and communication technology (Nw: *IKT-forskriften*) which applies to most of the financial services industry, including banks and systems for payment services. The regulation gives each business falling under its scope certain duties with respect to planning and organisation, risk analysis, security, etc.

The Directive on security of network and information systems (EU) 2016/1148 (the NIS Directive) is expected to be implemented in the EEA Agreement and consequently also in Norwegian law in the future. The timing of such implementation is currently unclear.

The National Security Act, requiring preventive measures to secure core business, applies to companies that are part of critical infrastructure, e.g. financial infrastructure, but only if and when an administrative decision explicitly stating that a company is covered by the Act has been passed. The Act also applies to some suppliers to companies covered by the Act, *i.a.* depending on the services provided. Currently, no administrative decisions have been rendered concerning private companies within the financial sector, but such decisions are expected in the near future.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

The Norwegian Anti-Money Laundering Act and Regulations implement the Fourth AML Directive.

Entities conducting licensable services (*cf.* question 3.1 above) are subject to the Anti-Money Laundering Act and Regulations, and are obligated to report any suspicious transactions to the Norwegian Economic Crimes Unit.

Such companies are obligated to apply customer due diligence (CDD) and know-your-customer (KYC) measures upon, among other things, the establishment of customer relationships and before completing transactions with a value of NOK 100,000 (or more for non-established customers). KYC verification is based on, among other things, a valid proof of identity and verification of beneficial owners.

A person who wilfully or with gross negligence breaches obligations set out in the Anti-Money Laundering Act and Regulations may be subject to a fine or, in severe circumstances, imprisonment of up to one year.

As of 15 October 2018, providers engaged in exchange service between virtual currencies and fiat currencies and custodian wallets providers are subject to AML requirements, including registration and supervision by the Norwegian Financial Supervisory Authority.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction?

See question 3.1 above.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

Hiring:

There are few rules regarding the hiring of employees in Norway, and the hiring process is, to a large extent, subject to the employer's discretion. However, there are no particularly onerous requirements or restrictions that are frequently encountered by businesses regarding hiring, so that:

- The provisions on non-discrimination apply in the hiring process. This implies that discrimination on the basis of political view, union membership, age, part time/temporary employment, gender, ethnicity, religion or philosophical belief, disability, sexual orientation, sexual identity or gender expression, is prohibited.
- An employee who has been made redundant, or is employed part-time, has a preferential right to a new appointment/extended post in the company.

Dismissal for cause:

Norwegian law does not recognise at-will employment, and termination of an employment agreement must be for a 'valid cause' based on particular circumstances connected with the business or the employee in question.

The minimum notice period for dismissal is one month, unless otherwise stated in a collective agreement. The minimum notice period is prolonged for employees who have reached certain age levels and/or have been employed in the company for a certain period of time. In Norway, the parties usually agree on a mutual notice period of two or three months.

During the notice period, the employee is, as a general rule, entitled and obliged to remain in his/her position, perform work and receive an ordinary salary and other benefits pursuant to his/her employment agreement.

Upon a formal termination of the employee's employment, the employee has an unconditional right to dispute a termination, demand negotiations and file legal proceedings. Until a dispute has finally been resolved, the employee is, as a general rule, entitled to remain in his or her position and receive salary and other benefits.

Dismissal without notice:

An employer may dismiss an employee with immediate effect (i.e. without notice) if the employee is guilty of a gross breach of duty or other serious breach of the employment agreement.

Dismissal without notice is considered a severe action due to the fact that the employee's employment is terminated immediately, and that he/she is not entitled to salary or other benefits after the termination date.

In the event of a dispute concerning the lawfulness of a dismissal without notice, the employee is not entitled to remain in his/her position while the case is pending unless the court decides otherwise.

5.2 What, if any, mandatory employment benefits must be provided to staff?

Salary:

There is no general minimum salary in Norway. The salary is agreed between the employer and the employee. Employees covered by collective bargaining agreements will be paid a salary pursuant to the collective agreement.

Overtime compensation:

Employees in Norway are entitled to overtime compensation of at least 40% in addition to their ordinary hourly salary for hours worked outside of the statutory normal working hours. A different level of overtime compensation may be stipulated in a collective bargaining agreement. However, employees in leading positions or employees in particularly independent positions are not subject to the rules on overtime payment.

Holiday and holiday pay:

Employees in Norway are entitled to an annual holiday of four weeks and one day. However, Norwegian companies often grant the employees an annual holiday of five weeks, as do most collective agreements.

Holiday payment from an employer is calculated on the basis of salary paid in the preceding calendar year. The holiday pay shall amount to 10.2% of the salary if the employee is entitled to four weeks and one day, and 12% if the employee is entitled to five weeks' holiday. Normally, the employer pays holiday pay in June instead of the ordinary salary, regardless of when the employee takes holiday.

In addition, the employee will be entitled to time off on public holidays.

Pension:

Norwegian companies have a legal obligation to establish pension plans for their employees. Thus, all employees are entitled to an occupational retirement pension, i.e. a pension financed primarily by the employer (with the possibility for contributions from employees at a given level). This scheme is additional to the retirement benefit/pension that the employee receives from the Norwegian National Insurance Scheme.

Occupational injury insurance:

All employers are obliged to take out occupational injury insurance which shall cover occupational injury and occupational disease for the employee.

Daily cash benefits in the case of illness:

The employer is obliged to pay sick pay during an employee's illness for a period of 16 days, after which the employee is entitled to sickness benefits from the National Insurance Scheme for a maximum period of one year.

Parental leave and benefit:

In connection with childbirth and care for the child during the first year of the child's life, the parents are entitled to a total of

one year's leave of absence. Parental benefit is paid for 49 weeks with 100% coverage from the Norwegian National Insurance Scheme or 59 weeks with 80% coverage.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

Citizens from countries outside the EEA and Switzerland wishing to work in a company in Norway have to apply for a residence permit. Citizens from the EEA and Switzerland can work in Norway without having to apply for such permit but must register with the police within three months after arriving in Norway. Citizens from the Nordic countries do not need to register with the police.

All foreign citizens moving to Norway must have a tax card with a personal identification number to work in Norway and must provide the postal address to the Norwegian authorities. If the employee intends to stay in Norway for a period of more than six months, the employee must report to the National Registry within eight days of arrival.

There are no special rules or routes available to individuals who work for fintech businesses.

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Norwegian intellectual property (IP) law is based on international and EU IP regulations. IP regulations within the EEA area are essentially harmonised.

Patents:

Inventions which may be used for industrial purposes may be patented pursuant to the Norwegian Patent Act by filing an application to the Norwegian Industrial Property Office (NIPO). Furthermore, Norway is party to the European Patent Convention (EPC). An invention may thus also obtain patent protection in Norway by filing a patent application with the European Patent Office (EPO) (see question 6.3 below).

The invention must be new, meaning that the invention must not have been known to the public before the filing date of the patent application. Furthermore, the invention must entail a so-called 'inventive step', which means that the invention must differ in a significant way from the prior art at the filing date of the patent application. As a general rule, computer programs as such are exempted from patenting. However, a patent for inventions involving computer programs may in some cases be granted if the invention has a so-called 'further technical effect'. In order to fulfil the requirement of 'further technical effect', the invention must comprise something beyond the normal, technical interactions that take place in a computer when running a computer program. If a patent is granted, the patent is, as a general rule, protected for 20 years from the day the patent application was filed.

Design:

A creator of a design, for instance a web page or a user interface, may file an application to NIPO for design registration pursuant to the Norwegian Design Act. A design registration may only be granted for a design which is new and has individual character. A design is considered new if no identical design was known to the public before the filing date of the design application. A

design is considered to have individual character if the overall impression it produces on the so-called 'informed user' differs from the overall impression produced on such a user by any design which was available to the public before the filing date of the design application. Design registration in Norway may also be obtained by filing a design application with the Hague System for the international registration of industrial designs. If a design registration is granted, the design is protected for a five-year period, and may be renewed for one or more periods of five years each, up to a total term of 25 years from the date of filing.

Trademarks:

Trademarks, meaning figurative marks, logos, word marks, etc., may be registered by applying to NIPO pursuant to the Norwegian Trademark Act. A trademark registration may only be granted if it can be used to differentiate a product from others, meaning it must have the ability to indicate the product's commercial origin (thus being distinctive from other marks). If a trademark is granted, the trademark is protected for a period of 10 years from the day of application and may be successively prolonged for additional 10-year periods.

Copyright:

The Norwegian Copyright Act may also provide legal protection for creators of intellectual or creative works, for instance computer programs (source code and related documentation), photos, lectures and scientific works, provided that they are a product of an individual and creative process. The copyright exists from the moment the work is created. The copyright may not be registered, thus no registration or other formalities are required in order to obtain copyright protection. Legal protection of a copyright pursuant to the Copyright Act is limited to 70 years after the creator's year of death.

Trade secrets:

Innovations and inventions, including both commercial information and technical information, such as source code and related documentation, may be subject to trade secret protection. Norway's new act on the protection of trade secrets entered into force on 1 January 2021 and represents a welcome clarification of the legal position of trade secret holders. The Act implements Directive (EU) 2016/943 (the EU Trade Secrets Directive) in Norwegian law and introduces a statutory definition of trade secrets, based on the definition in the EU Trade Secrets Directive. The Act defines a 'trade secret' as information which (i) is secret in the sense that it is not, as a body or in the precise configuration or assembly, generally known or readily accessible, (ii) has commercial value because it is secret, and (iii) has been subject to reasonable steps by the person in control of the information to keep it secret. The definition aims to ensure a uniform understanding within the EU/EEA of which information that may be protected as trade secrets. The Act further includes provisions on unlawful acquisition, use and disclosure of trade secrets and provisions on the enforcement measures available to the trade secret holder.

6.2 Please briefly describe how ownership of IP operates in your jurisdiction.

Ownership to IP may, as a general rule, be transferred. For registerable IP, i.e. trademark, patent or design rights, ownership shall be registered in NIPO's database.

A company may acquire rights to IP arising as a result of an employee's execution of work for the company. Securing such IP rights is usually regulated in the employer's contract with

the employee. For patentable inventions, the employee has the right to reasonable compensation pursuant to the Norwegian Employee Invention Act. As regards copyrights to computer programs developed by an employee, unless otherwise agreed upon, such copyright is transferred automatically to the employer pursuant to the Norwegian Copyright Act. For other copyrights, unless otherwise is agreed with the employee, copyright is only transferred to the employer to the extent necessary to fulfil the purpose of the employment.

Following the adoption of Norway's new Copyright Act in 2018, creators and performing artists have a statutory right (except in consumer relations) to a 'reasonable compensation' for rights to original works, from the person the rights are assigned to.

6.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

As a starting point, local registration in Norway is necessary to protect the commercial exploitation of trademarks, designs and patents in Norway. Trademark protection in accordance with the Norwegian Trademark Act may also be obtained without registration by way of consistent and comprehensive use over a period of time.

Furthermore, to obtain protection in Norway for holders of a European patent registration, the holder of the patent registration must translate the patent claims to Norwegian and subsequently send the claims to NIPO. Trademark holders outside Norway may also secure trademark protection in Norway by applying through the Madrid Protocol system administered by WIPO. Design holders outside Norway may secure design protection in Norway by submitting an application to WIPO through the Hague System.

Copyright holders may protect and enforce their copyrights without consideration to local or national rights pursuant to the Berne Convention. A state which has ratified the Convention is obligated to provide copyright holders with the same copyright protection without consideration of their country of origin.

Trade secret protection is not subject to registration and may thus be enforced in accordance with the new act on the protection of trade secrets, provided the requirements for protection as trade secrets are fulfilled.

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

Registration of patents, trademarks or designs confers on the right-holder an exclusive right to exploit the rights for industrial and commercial purposes. Furthermore, the holders of such rights may enter into licence agreements with third parties granting an exclusive or non-exclusive right to exploit the relevant IP.

Copyright and trade secret holders may also enter into similar licence agreements. Any such licence agreement concerning copyrights will be subject to the Norwegian Copyright Act's mandatory rules on, among other things, consumers' rights to private copying, the right to quote from a copyright-protected work, and the use of a copyright-protected work for educational purposes.

Some copyright holders, such as musicians and authors, submit their rights to a collection society, which manages the copyright holders' interests and enters into licence agreements on behalf of the copyright holder.

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