SBB – Contingent Liabilities

Transaction counterparty accounts reveal **material undisclosed contingent liabilities at SBB**.

PLEASE READ IMPORTANT DISCLAIMER ON PAGE 4

March 22, 2022 – Perusal of SBB's transactional counterparty financial accounts show significant contingent assets stemming from sales to SBB, which appear to be performance/event driven.

SBB do not appear to recognize contingent liabilities to these transactional counterparties anywhere in its financial reports, creating a material audit risk of huge off-balance sheet liabilities from its aggressive acquisition strategy.

Background

Readers can find Viceroy's Report: ***Hard to Pronounce, Harder to Justify Value***, and subsequent responses to management and updates here:

https://viceroyresearch.org/samhallsbyggnadsbolaget-research/

Undisclosed Contingent Consideration in Laeringsverkstedet Transaction

In 2020, Laeringsverkstedet ("**LV**") completed a sale and leaseback of 138 childcare facilities to SBB. Viceroy Research have already analyzed and commented on the circumstances of this transaction in detail. You can find it here:

https://viceroyresearch.org/wp-content/uploads/2022/03/SBB-Norway-Letter-Final.pdf

LV parent Dibber AS's financial accounts state that, in the share sale agreement of Barnehagebo (LV's SPV holding the 138 childcare facilities), there includes a possibility of a further NOK 250m in additional consideration dependent on certain future events.

Note 14 Gevinst salg SBB

I løpet av 2020 har Dibber AS etablert et eget eiendomskonsern med ca 140 barnehageeiendommer. Strukturen er etablert gjennom å fisjonere ut de aktuelle eiendommene fra Dibber AS, Læringsverkstedet AS og enkelte datterselskaper av Læringsverkstedet AS. Eierselskapet i eiendomskonsernet, Barnehagebo AS, ble gjennom omorganiseringen ett datterselskap av Dibber AS. Omorganiseringen er i selskapsregnskapet til Dibber AS bokført til selskapskontinuitet og bokført kostpris på aksjene i Barnehagebo AS er omtrent 0,5 millioner.

31.8.2020 ble aksjene i Barnehagebo solgt. Det er i 2020 innregnet en regnskapsmessig gevinst på salget av aksjene på ca 2,422 mrd. Gevinsten er presentert som annen finansinntekt og beløpet er etter påløpte transaksjonskostnader. Mesteparten av vederlaget ble mottatt på salgstidspunktet med unntak for 500 millioner. Av dette skal halvparten betales 12 måneder etter salgstidspunktet og resten 24 måneder etter salgstidspunktet. Det er betingelser knyttet til den utsatte betalingen, men Dibber forventer å oppfylle disse betingelsene. Det utsatte vederlaget er innregnet i balansen til neddiskontert virkelig verdi og inngår i gevinstberegningen. De fremtidige betalingene er medtatt som hhv annen kortsiktig fordring og annen langsiktig fordring.
Aksjesalgsavtalen inneholder også mulighet for ytterligere 250 millioner i tilleggsvederlag, men er avhengig av visse fremtidige hendelser. Det er usikkerhet knyttet til tilleggsvederlaget og det er ikke innregnet noen andel av dette i gevinsten eller avsatt for beløp i balansen per 31.12.2020.

Figure 1 Extract from 2020 Financial Accounts of Dibber AS (LV's parent company, consolidated)

Of note from this extract:

1. "Most of the consideration was received at the point of sale, with the exception of NOK 500m (SEK 479m, EUR 48m). Half of this must be paid 12 months after the time of sale and the rest 24 months after the time of sale. There are **conditions attached to the deferred payment**, but Dibber expects to meet these conditions."

2. The share sale agreement also **includes the possibility of an additional NOK 250m (SEK 239m, EUR 24m) in additional consideration**, but is dependent on certain future events. There is uncertainty related to the additional consideration and **no share of this has been recognized** in the gain or set aside for amounts in the balance sheet as of 31.12.2020.

Of particular importance, we note that LV has not recognized a portion of contingent assets because it does not believe there is a probable chance that payment conditions will be met[1].

SBB's accounts

Viceroy Research cannot immediately reconcile all these contingent liabilities to SBB in the same year. As usual, there is absolutely no transparency into SBB's aggressive acquisitions, and their terms.

The best you'll find is a one-line statement deep in the financial report which states that "other liabilities" consist of liabilities linked to acquisition of properties. A breakdown of other long-term liabilities shows an almost 50/50 split between "transactions affecting cash flow" and "debt acquired on acquisition".

> The other liabilities consist of deferred tax liability, accounts payable, current tax liabilities, accrued expenses and prepaid income and other liabilities linked to acquisitions of properties.

	31-12-2020				
Maturity structure	**< 1 yr**	**1-3 years**	**3-5 years**	**> 5 yr**	**Total**
Liabilities to credit institutions	130	4,154	3,361	4,424	12,169
Bond loans	3,160	4,333	9,922	20,675	38,090
Commercial papers	5,418	-	-	-	5,418
Other long-term liabilities	-	999	19	3	1,020
Derivative liabilities	97	18	124	27	267
Accounts payable	117	-	-	-	117
Other current liabilities	2,098	-	-	-	2,098
Total	**11,020**	**9,605**	**13,425**	**25,128**	**59,179**

			Non-cash flow transactions			
	01-01-2020	**Transactions affecting cash flow**	**Debt acquired on acquisition**	**Change in foreign currency**	**Other**	**31-12-2020**
Bond loans	25,162	11,674	-	947	-	37,783
Liabilities to credit institutions	25,985	-14,918	513	484	-	12,064
Commercial papers	4,944	348	-	126	-	5,418
Deferred tax	3,095	-	-	-	-678	2,417
Other long-term liabilities	22	498	500	-	-	1,020
Total liabilities attributable to financing activities	**59,208**	**-2,398**	**1,013**	**1,557**	**-678**	**58,703**

Figures 2, 3 & 4 SBB 2020 Annual Report

As such we do not believe this undisclosed contingent consideration has been properly recorded. Management and auditors **must** advise shareholders:

How many transactions SBB has undertaken include the possibility of further payouts?

Do any of these further payouts sit off-balance sheet? If so, how many?

The most important question: Will contingent payout conditions be met?

[1] https://www.iasplus.com/en/standards/ias/ias37

Catch-22 – The awkward implication of recognizing these contingent considerations

The obvious issue with not recording – or even disclosing – contingent consideration is that it creates an off-balance sheet liability with potential for detrimental effect. The aftermath of unexpected liabilities has tanked many mining companies through undisclosed excessive hedges (see: Sons of Gwalia).

The Catch-22 is that recognizing and reversing contingent consideration creates a huge problem for SBB when **performance objectives are not met**.

We have already illustrated how absurd and completely unjustified SBB's immediate acquisition revaluations are. It is mind-boggling to think that these could be justified among undisclosed performance objectives not being met.

Key Takeaways

Investors, auditors, and transaction stakeholders should be aware of contingent liabilities (or assets) and how SBB are treating these accounts.

The existence of contingent liabilities has not even been disclosed by SBB, which is not a surprise given the insufferably opaque nature of SBB. Viceroy believes this is opacity is by design.

We have contacted SBB's auditors for questions surrounding the recognition, existence, and reversal of SBB undisclosed contingent liabilities.

Attention: Whistleblowers

Viceroy encourage any parties with information pertaining to misconduct within Samhällsbyggnadsbolaget, its affiliates, or any other entity to file a report with the appropriate regulatory body.

We also understand first-hand the retaliation whistleblowers sometimes face for championing these issues. Where possible, Viceroy is happy act as intermediaries in providing information to regulators and reporting information in the public interest in order to protect the identities of whistleblowers.

You can contact the Viceroy team via email on viceroy@viceroyresearch.com.

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