Swedish Code of Corporate Governance

A Proposal by the Code Group

Stockholm 2004

Foreword

This document presents a proposal for a Swedish code of corporate governance.

A special working group called the Code Group has developed the code as a joint effort of the Government Commission on Business Confidence and the following bodies and organisations in the business sector: FAR (the institute for the accountancy profession in Sweden), the Swedish Industry and Commerce Stock Exchange Committee (Näringslivets börskommitté, NBK), the Stockholm Stock Exchange, the Stockholm Chamber of Commerce (Stockholms Handelskammare), the Swedish Bankers' Association (Svenska Bankföreningen), Swedish Securities Dealers Association (Svenska Fondhandlareföreningen), Confederation of Swedish Enterprise (Svenskt Näringsliv), the Swedish Shareholders' Association (Sveriges Aktiesparares Riksförbund) and the Swedish Insurance Federation (Sveriges Försäkringsförbund).

Participants from the Commission on Business Confidence were its chairman Erik Åsbrink, who also chaired the Code Group, Marianne Nivert and Bengt Rydén. Participants from the business community were Claes Dahlbäck, Karin Forseke, Lars-Erik Forsgårdh, Kerstin Hessius, Arne Mårtensson and Lars Otterbeck. Rune Brandinger and Eva Halvarsson participated as adjunct members. Rolf Skog and Per Thorell contributed as experts. The Secretariat was composed of Per Lekvall, Secretary, and Mårten Steen, Assistant Secretary from October to November 2003, when he was succeeded by Björn Kristiansson.

The Code Group met eight times between October 2003 and April 2004. The Commission's reference group has met several times to discuss the code at various stages of its development. Three external reference meetings were held: one with a group of company lawyers, one with accounting and auditing experts and one with representatives of the major Swedish institutional owners.

The proposed code is intended to be circulated for comments by the parties concerned and widely discussed and debated in the business community and society in general. All interested parties are invited to make comments and propose improvements. In autumn 2004 these comments and proposals will be reviewed and will compose the basis of the code's final form. The aim is that the code can then be put into practice beginning in 2005.

Stockholm, April 21, 2004

Erik Åsbrink

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I. Introduction

Corporate governance, or *bolagsstyrning* in Swedish, deals with the manner in which companies are to be run to meet the owners' required return on invested capital and thus contribute to economic growth and efficiency in society.

The present-day concept of corporate governance emerged in the United States in the mid-1980s as a reaction by some institutional owners to high-handed and self-willed company managers. In Europe, it first gained widespread attention in the early 1990s in connection with a number of high-profile company scandals, chiefly in the United Kingdom, which led to the Cadbury Report in 1992. Since then, the concept has evolved rapidly, with the result that corporate governance codes with varying degrees of official sanction have been drawn up in a number of European countries and other parts of the world. In Scandinavia, similar codes have been issued in Denmark, Finland and Norway. In 1999 the OECD published its Principles for Corporate Governance, which have recently been updated, and the EU has been working actively in this area for several years.

1 A Swedish Code of Corporate Governance

In Sweden, corporate governance issues have been high on the agenda for more than a decade. In the latter part of the 1980s, the Commission on Ownership and Influence in Swedish Business (Ägarutredningen) conducted an exhaustive inquiry into issues that today fall under the heading of corporate governance. Since then the Swedish debate on corporate governance has intensified. A gradual revision of the Swedish Companies Act has been under way since 1990 as part of the work of the Companies Act Committee (Aktiebolagskommittén). In 1993 the Swedish Shareholders' Association (Sveriges Aktiesparares Riksförbund) published Sweden's first ownership policy, a compilation of guidelines on how the owners' role should be exercised. It has subsequently been followed by a large number of similar compi-

lations, and the majority of the larger Swedish institutional owners now have their own shareholder policy. In 2003, the Swedish Academy of Directors (StyrelseAkademien) issued its *Guidelines for Good Board Practice*, a comprehensive compilation of best practice for boards of directors of Swedish companies. The Swedish self-regulating bodies in the area, principally the Stockholm Stock Exchange, the Swedish Industry and Commerce Stock Exchange Committee (Näringslivets Börskommitté, NBK); and the Securities Council (Aktiemarknadsnämnden) have been incorporating several regulations on key corporate governance issues into their regulatory systems.

However, no comprehensive and broadly accepted code for the governance of Swedish public companies has yet been drawn up. In its analysis of issues of general confidence in the business sector, the Commission on Business Confidence has identified inadequate corporate governance as a contributing factor in quite a number of confidence-shaking events. Therefore, in the spring of 2003 the Commission began work to develop a Swedish code of corporate governance. Simultaneously, discussions to the same end were being held in the business community. Given this situation the Commission took the initiative to co-operate with the business community in drawing up a national code of Swedish corporate governance. This led to the formation of the joint working group called the Code Group, with participation by both members of the Commission and representatives of the business community.

1.1 The Code's Aim and Fundamental Values

The initiative to develop the code is based on the view held by both the Commission and the Code Group that Swedish corporate governance needs to be improved and that a generally accepted code, presenting a comprehensive picture of best Swedish practice in the area, can help bring about such an improvement. The larger listed companies, by being the first to improve their corporate governance, will serve as examples and models for other types of companies.

The code is intended to form part of self-regulation in the business sector. Its general aim is to help improve the governance of Swedish companies. This, in turn, will promote public confidence in the functioning of the business sector. A second important aim

is to enhance the understanding and confidence of foreign investors and other actors in the international capital markets in Swedish corporate governance and thus promote the Swedish business sector's access to foreign risk capital.

A code for self-regulation must rest on the existence of a common value system among those to whom the regulation applies. Some key principles underlying the Code Group's work have been:

- to create good conditions for shareholders to exercise an active and responsible ownership role,
- to create a sound balance of power between the owners, the board of directors and the executive management, which enables shareholders to assert their interests in all aspects of corporate governance,
- to create a clear division of roles and responsibilities between the various governing bodies,
- to uphold the principle of equal treatment of shareholders in the Swedish Companies Act, not least in companies with one or a few controlling shareholders at the side of a broadly dispersed shareholding, which is a common ownership structure among companies listed on the Swedish stock market; and
- to create transparency towards shareholders, the capital market and society in general.

1.2 Target Group

The code is written primarily for Swedish companies listed on the Stockholm Stock Exchange or an authorised market place. However, for the most part it should also be relevant to other types of companies with a diverse ownership or public interest, such as co-operatives and state- and municipally owned companies, as well as many larger privately owned companies. The extent to which such companies are to apply the code is a matter for their owners to decide.

Certain rules in the code may appear to be less relevant or too costly for smaller listed companies.

1.3 Code Form and Content

The code deals with the decision-making system by which the shareholders directly and indirectly govern the company. This is expressed in a number of rules on the organisation and working methods of individual company governance bodies and the interaction between these bodies. In addition there are guidelines on reporting to shareholders, the capital market and the general public,

The performance of the audit function per se, as well as issues that concern how the stock market functions, are not discussed as these matters have not been considered part of the corporate governance concept. Nor are the company's relations to outside stakeholders such as customers, employees or the general public discussed other than in very general terms. This does not mean that these issues are considered less important to the company. On the contrary, they are in general crucial to the company's success and survival. However, they are primarily an executive management responsibility and thus for the most part lie outside the scope of corporate governance issues.

The rules in the code are designed as directions for the company or, if the company is part of a group, for the group, without this being explicitly stated. Most of the rules apply to the work of the board of directors, but in some cases they are addressed to the shareholders' meeting, the auditors or the top management. Within the framework of applicable law and the company's articles of association, the shareholders' meeting is sovereign to decide on all matters it considers appropriate.

Some of the rules in the code are expressed in terms precise enough to make it possible to establish with reasonable certainty the extent to which they are observed. Other rules have more the character of guidelines and good intentions. They lack the precision required to be able to follow up on them exactly. The reason for including such rules is the code's aim not only to define what is acceptable corporate governance practice, but also to serve as a source of inspiration and a lodestar for companies to improve their corporate governance. Much of what is generally considered part of corporate governance has more the nature of attitudes and common patterns of behaviour than precisely defined rules and regulations.

1.4 Comply or Explain

The basis of Swedish corporate governance is the Swedish Companies Act and its equivalents for public limited companies with specially regulated activities. The code contains a number of rules and guidelines that in many cases are more ambitious than the law requires. This is an important advantage of self-regulation compared with legislation: the ability, on individual issues, to set higher standards – standards that not all companies could reasonably be expected to achieve on every occasion.

A company that follows the code may deviate from individual rules, but then this deviation must be warranted under the principle "comply or explain". This model has been successfully used in most corporate governance codes developed in the past ten years. Throughout the rules presented in the code, the wording 'is to' is used to leave no doubt that all the deviations from the rules are to be explained.

The code directs companies following the code to attach a separate corporate governance report to their annual report and to post the corresponding information to their web site. In the corporate governance report, the company is to declare that it is applying the code and briefly describe how this is done. If the company deviates from individual rules it is to state this, and the reasons for each deviation must be clearly explained. However, the aim is not only for the companies to check off the various code requirements but also to act in accordance with the spirit and intentions of the code.

For companies listed on the stock market, the market will decide if the reasons for any deviation are acceptable or not. If they appear well-founded and reasonable, the deviation will probably not have any detrimental consequences for the company. If not, the company could suffer from negative publicity as well as a loss of confidence on the capital market.

For other types of companies applying the code, the owners will have to decide how reported deviations are to be handled.

2 The Swedish Corporate Governance System in an International Context

2.1 The Anglo-American versus the Continental European Model

In descriptions of different corporate governance systems from an international perspective, a distinction is often made between the systems in the United States and the United Kingdom on one side and in the major countries in continental Europe, particularly Germany, on the other side. It can reasonably be argued that corporate governance systems, even in the same country, differ from one company to another in several respects, but there are also more or less systematic differences between countries. An important dividing line is usually thought to run between Anglo-American and continental European countries.

One difference, often highlighted in this context, is the ownership structure. Simply put, the large listed companies in the United States and the United Kingdom have for a long time had a more dispersed ownership, while the ownership structure in continental European countries is in many instances more concentrated in the sense that there are typically one or a few principal owners in the company.

A second difference concerns the incidence of public takeover bids on the stock market. In the American and British business sectors, takeover bids have been common for several decades and the market for corporate control is viewed by many as an important feature of the corporate governance system. In Germany and several other continental European countries, takeover bids occur considerably less frequently and in any event, are not generally viewed as a natural component of the corporate governance system.

A third, and in this context more important difference, concerns the companies' corporate governance structure. A common, though somewhat simplified description, is that in Anglo-American countries a one-tier governance model applies whereas in continental European countries, there is a two-tier model.

One characteristic of the *one-tier* model is that there is only one governance body in the company. In Great Britain, the company's highest decision-making body, the shareholders' meeting,

appoints the board of directors, which is responsible for the company's governance. The board's mandate is decided entirely by the shareholders' meeting, with the company's articles of association as its basis, and the law does not contain any further regulations on the board's duties. There is no separate executive board. Thus in practice, the board also has an executive function, the responsibility for which normally rests with the managing director, who is appointed by the board.

Traditionally directors in British listed companies have been recruited mostly from the company's management, in which case they are called executive directors. However, on this point the corporate governance debate has resulted in a gradual tightening of the rules and regulations and a change in practice. Today the British corporate governance code (the Combined Code) prescribes that a majority of the members of the board of directors are to be non-executives, that is, they must not be part of the executive management of the company.

In the United Kingdom, employees have no legislated right to board representation.

The *two-tier* governance model, of which the German system is the most often cited, divides the governance function between two governing bodies – a supervisory board (Aufsichtsrat) and a management board (Vorstand).

The shareholders' meeting is the company's highest decision making body. The meeting appoints the Aufsichtsrat which, in turn, appoints the Vorstand. However, the power of the shareholders' meeting to influence the governing bodies' activities through directions and guidelines is extremely limited. Furthermore, there is a strict division of functions between the Aufsichtsrat and the Vorstand. The key governing body is the Vorstand, which is responsible for looking after the administration of the company. The Aufsichtsrat supervises the work of the Vorstand and may only intervene in the direct management of the company in a very limited way. In addition the law forbids the same person to sit on both boards.

German law also includes extensive regulations on employees' representation on the company's boards. In companies with at least 500 employees, a third of the directors on the Aufsichtsrat are to be appointed by the employees; in companies with more

than 2000 employees, the employees appoint half of the directors. Employees have no right to representation on the Vorstand.

2.2 The Swedish Corporate Governance Model

The Swedish corporate governance model lies somewhere in between the Anglo-American and the continental European models in several respects.

The ownership structure of most of the listed Swedish companies is closer to that found in continental Europe than to that of large American and British listed companies. Many companies indeed have a relatively large number of owners, but the majority of companies have one owner or a group of owners whose shareholdings and number of votes in effect give them a controlling ownership position. Only a small number of Swedish listed companies lack a controlling owner.

However, the existence of powerful shareholders in Swedish companies has not hindered the growth of a very active Swedish market for corporate control. In this respect, Sweden is more like the United States and Britain than like continental Europe. Takeover activities on the Swedish stock market tend to be higher than in the United Kingdom, for example.

Swedish company law has its historical roots in German law. Still the governance structure laid out in Swedish law does not bear any resemblance to the two-tier form of governance. The prescribed form of governance is basically closer to the British one-tier model, as will be seen later in this text.

The company's highest decision-making bo The shareholders' meeting elects the company's board of directors, who, in turn, appoint the company's managing director. The meeting has additional obligations, such as adopting the company's balance sheet and profit and loss account, deciding on the allocation of the profits from the company's activities and making decisions on discharge from liability for members of the board and the managing director. The shareholders' meeting also elects the company's auditors. When necessary, the shareholders' meeting may decide to increase or decrease share capital. The meeting may also change the articles of association.

As a rule, each shareholder in attendance at the shareholders' meeting has the right to vote for all shares owned. A regulation providing, for example, that each shareholder may only vote for a certain number of shares may be put in the articles of association, but in practice such restrictions on voting rights are very uncommon.

The main voting rights provision in Swedish law is that all shares have equal rights in the company. However, the law permits provisions in the articles of association to distinguish between different types of shares on such matters as number of votes per share. However, a share in a company may not have more than ten times the number of votes of any other share in the same company. Such differentiation in voting rights currently can be found in about half of the Swedish stock market companies. In practically all of these companies, the difference in the number of votes per share is 1:10.

The decisions of the shareholders' meeting are generally taken with a simple majority of the votes cast. However, mostly for the protection of minor shareholders, especially shareholders with reduced voting rights, the law requires that certain decisions are to be taken with a qualified majority of both the votes cast and of the shares represented at the meeting. In addition there is a general rule for the protection of minority shareholders prescribing that the shareholders' meeting may not make a decision that might give undue advantage to some shareholders (or to third parties) to the disadvantage of the company or other shareholders.

On issues concerning the company's form of governance, a dividing line now runs between public and private companies. Simply put, the law imposes stricter requirements on the first-named category. Only that category is of interest in the present context.

By law, there is to be a board of directors of at least three members in all public limited companies. During its term, the board has unlimited responsibility for the company's organisation and the management of the company's affairs. The extensive decision-making authority thus assigned the board is limited only by the exclusive decision-making powers of the shareholders' meeting in certain matters, among them, the power to choose the board of directors and the auditors, adopt the balance sheet and

profit and loss account, increase and decrease share capital and change the articles of association, as previously mentioned .

Still the directors are obliged in their governance to comply with special directions given by the shareholders' meeting, provided that the directions are not in conflict with the law or the articles of association. However, in practice such directions are very uncommon.

In addition to the board, there is to be a managing director appointed by the board in all public limited companies. The managing director is responsible for the company's day-to-day management but, unlike the two-tier model, the Swedish managing director is subordinate to the board. The managing director is obliged, under the law and articles of association, to follow instructions from the board on how routine management measures are to be handled or decided. The board may also decide on matters that are part of the day-to-day management but must not interfere with the day-to-day operations to such an extent that the managing director in reality may no longer be considered to have that position.

Directors are elected by the shareholders' meeting in accordance with customary majority rules. The law does not guarantee a minority shareholder of a certain size any right to representation on the board.

Under special legislation, employees have the right to representation on the board of major Swedish companies. In companies with 25 employees or more, employees have the right to appoint two representatives to the board, along with two deputy members; in companies with activities in several branches and at least 1000 employees, they have the right to appoint three representatives and three deputies. However, the number of employee directors may never exceed the number of other directors.

In a typical Swedish listed company, several persons connected to one or more of the controlling shareholders are included on the board. In addition to the managing director, who may or may not be member of the board, and the employee representatives, the board of a Swedish company typically is entirely composed of "non-executive" directors. Thus, as a rule the managing director is the only director on the board chosen at the shareholders' meeting who is also a part of the company's management team.

In this respect Swedish companies differ markedly from British companies, for example.

In the event that the shareholders' meeting does not appoint the chair of the board, the board is to appoint one of its own members to the chair, who is responsible for directing the boards' work. The law does not permit the managing director to chair the board in public companies.

Each public limited company is also to have one or more auditors whose task is to examine the company's annual accounts and accounting practices and to review management of the company by the board and the managing director.

The main purpose of the audit originally was to safeguard shareholders' interests by examining the work of the company's board and management. Now the auditor is considered to have an obligation also to protect the interests of other "stakeholders" in the company, such as employees, creditors and capital market actors.

II. The Owners' Role and Responsibility

A dynamic and competitive business sector requires a well-functioning capital market through which savings in the form of loan capital and risk capital are channelled to companies for investment.

Owners that take responsibility for the firm's development and for the development of the business sector are an important element of an efficient market economy. Shareholders are responsible for providing risk capital to the economy, but they also contribute to efficiency and regenerative capacity in individual firms, and in the business sector generally, by exercising influence via the shareholders' meeting as well as by buying and selling shares.

A dynamic business sector requires a diverse ownership with different investment aims, time horizons and risk propensity. A well-functioning market for corporate control also promotes a dynamic business sector.

Shareholders with large holdings in stock market companies should make use of the shareholders' meeting to exercise influence in the company, for example, through the election of the company's board of directors, and to have a well thought-out policy on how to exercise the ownership role in the company. Shareholders' active participation in the shareholders' meetings promotes a sound balance of power between owners, the board of directors and company management.

Shareholders with large holdings in stock market companies have a special responsibility not to abuse their power to the detriment of the company or other shareholders. Shareholders with a minority interest have a responsibility not to abuse their minority rights to the detriment of the company or other shareholders.

Institutional owners, typically pension funds, life insurance companies, mutual funds, investment companies and others, should make their ownership policy public and so inform investors of their investment philosophy and the principles followed in exer-

cising the voting rights attached to the shares. They are also to provide information about conflicts of interest, if any, that might affect the exercise of ownership functions. Investors should have easy access to information on how the voting rights have been exercised in each instance.

III. Rules for Corprorate Governance

The corporate governance rules in the code consist of text at three levels. The first level immediately under a heading, displayed in *italics*, gives the overall principle or the larger context in which the section's rules are to be understood. This text contains no rules. The next level, displayed in **bold**, is composed of the rules; any deviations from these rules are to be explained. The third level, with no special style marks, provides an explanation or guidance for the rule just stated but does not constitute rules.

1 The Shareholders' Meeting

Shareholders' influence in the company is exercised at the shareholders' meeting, which is the company's highest decision-making body.

The shareholders' meeting should be held at such a time and place that as high a percentage as possible of the total number of shares and votes can be represented at the meeting.

The shareholders' meeting should be conducted in a manner that does not impede active participation on the part of those shareholders present in discussing and deciding the items listed on the meeting's agenda.

1.1 Notice of Shareholders' Meeting

1.1.1 At least six months before the annual general shareholders' meeting, and as soon as the board of directors has decided to hold an extraordinary shareholders' meeting, the company is to announce the time and location of the meeting. The information is to be posted to the company's web site at the same time that it is announced.

1.1.2 The company on its web site is to provide timely information on the shareholders' right to have a matter considered at the shareholders' meeting, to whom such a re-

quest is to be made and by what time the request must reach the company in order to guarantee its inclusion in the notice of meeting and thus be discussed at the meeting.

Under the law, every shareholder has the right to have a matter considered at the general or extraordinary shareholders' meeting if the shareholder submits a written request to the board within the time prescribed by law.

1.1.3 The company, in the notice of shareholders' meeting, is to aim to give shareholders relevant, clear and intelligible information on the matters to be considered. The notice of meeting is to be posted on the company's web site.

By law, the notice to attend the annual general shareholders' meeting is to be issued no sooner than six weeks and no later than four weeks before the meeting. The same rule applies to the notice to attend an extraordinary shareholders' meeting at which the question of changing the articles of association will be considered. For other extraordinary shareholders' meetings, the notice of meeting is, by law, to be issued no sooner than six weeks and no later than two weeks before the meeting. The notice of meeting is, by law, to include a proposed agenda for the meeting that clearly states the matters to be considered. The items on the agenda are to be numbered. Matters that are not customary are to be explained in detail.

1.1.4 If, before the shareholders' meeting, the company has obtained a statement from the Securities Council of importance to the company's shareholders concerning certain matters to be discussed at the meeting, this is to be made clear in the notice of meeting. The statement, or the principal contents of the statement, are to be posted on the company's web site.

1.1.5 The board's proposals on decisions to be taken at the shareholders' meeting are to be made available to shareholders at the company and posted on the company's web site as soon as possible, but at least two weeks before the meeting. Proposals for decisions put forward by shareholders are to be made available at the company and posted on the company's web site. The notice of meeting is to state that the proposals are posted on the

company's web site or may be ordered without cost by the shareholder.

1.1.6 Shareholders are to be given the opportunity to register to attend the shareholders' meeting in several ways, including registration by e-mail.

1.2 Distance Participation in Shareholders' Meetings

1.2.1 Before each shareholders' meeting, the company is to provide shareholders with the option of following or participating in the meeting from another location in the country or abroad, with the help of modern communications technology, if it is warranted by the ownership structure and economically feasible.

1.3 Board, Management and Auditor Attendance at Shareholders' Meetings

1.3.1 If possible, the entire board is to be present at the annual general shareholders' meeting. At extraordinary shareholders' meetings, a quorum of the board is to be present. The managing director and, if necessary, other senior managers are to be present at the meeting. At least one of the company's auditors is to be present.

1.3.2 If proposals for decisions on certain matters have been prepared by a committee of the board, the chair or another member of the committee is to be present at the meeting and describe and give cause for the proposals on behalf of the board.

1.4 Conducting the Shareholders' Meeting

1.4.1 The chair of the board or another board member is not to be chosen to chair the shareholders' meeting.

By law, the shareholders' meeting is to be opened by the chair of the board of directors or another person appointed by the board, unless the articles of association direct otherwise. The meeting is then to elect someone to chair the meeting, unless prescribed otherwise in the articles of association.

1.4.2 A shareholder or a representative of shareholders, who is neither a director nor an employee of the company, is

to be chosen to verify the minutes of the shareholders' meeting.

1.4.5 The shareholders' meeting is to be conducted in Swedish and the material presented is to be in Swedish. Before each shareholders' meeting, the company, based on the ownership structure and on what is economically feasible, is to consider whether the proceedings are to be simultaneously translated in whole or in part and whether the material presented by the company is to be translated into another language.

1.4.6 The chair of the shareholders' meeting is to see that the shareholders are given satisfactory opportunity to exercise their statutory right to ask questions at the shareholders' meeting, as well as comment on the proposals presented and propose changes and additions to them within the legislative framework before the meeting comes to a decision.

1.4.7 The company is to have a satisfactory technical procedure in place to take care of voting at the meeting.

1.4.8 The majority requirements stemming from the law, the articles of association, the rules of the Swedish Industry and Commerce Stock Exchange Committee and statements by the Securities Council are to be observed when decisions at the shareholders' meeting are made.

1.5 Minutes of the Shareholders' Meeting

1.5.1 The minutes from the most recent annual general shareholders' meeting and any subsequent extraordinary shareholders' meeting are to be posted on the company's web site. If called for by the ownership structure, the minutes are also to be translated into a language other than Swedish. The minutes are to be sent free of charge to shareholders who request it.

By law, the minutes from the shareholders' meeting are to be made available to shareholders at the company no later than two weeks after the shareholders' meeting.

2 Appointing the Board and the Auditor

Procedures for the nomination, election, remuneration and evaluation of directors and auditors are to be governed by the owners; the procedures are to be structured and transparent.

2.1 Nomination Committee

2.1.1 The company is to have a nomination committee that represents the company's shareholders. The shareholders' meeting is to appoint members of the nomination committee or to specify how they are to be appointed.

If the members of the nomination committee are not chosen at the meeting, the rule means that the decision taken at the meeting must specify the criteria to be followed when appointing members of the nomination committee. The nomination procedures followed should include a provision to replace members of the nomination committee appointed in their capacity as owners or representatives of owners if these owners substantially reduce their share holdings.

2.1.2 The nomination committee is to have at least three members, one of which is to chair the committee. The chair of the board of directors may be a member of the nomination committee, but is not to be its chair. Other members of the board of directors or the managing director are not to be members of the nomination committee.

The chair of the board of directors may not participate in the nomination committee's handling of the nomination for the chair of the board and the proposed fee for the chair.

2.1.3 The company is to announce the names of members of the nomination committee at least six months before the annual general shareholders' meeting and, if they represent a particular owner, the owners' name, as well as latest date for shareholders to submit proposals to the nomination committee and the procedures for doing so. The information is to be posted on the company's web site.

2.1.4 The corporate governance report is to include an account of how the previous year's nomination committee has conducted its work. The composition of the nomination committee is to be explained. If a member has repre-

sented a particular owner, that owner's name is to be given. Information is to be presented on the remuneration of the nomination committee, if any.

2.1.5 The nomination committee is to present proposals for:

- **nominations to the chair and other members of the board of directors,**
- **remuneration policy for directors,**
- **directors' fees, divided between the chair, other board members and possible remuneration for committee work,**
- **auditors,**
- **audit fees, and**
- **the nomination committee's remuneration, if any.**

The nomination committee's duty to evaluate the performance of the board of directors and the auditors is explained in 2.31 and 2.5.1.

2.1.6 Any proposal by the nomination committee on its own remuneration is to be presented in the notice of the shareholders' meeting.

2.2 Directors' Election and Fees

2.2.1 The nomination committee's proposal for the chair and other members of the board, proposals on terms of remuneration for board work and proposals on the division of board fees among the chair, other directors and committee work remuneration, if any, are to be included in the notice of the shareholders' meeting. A statement of the percentage of the total number of votes in the company commanded by shareholders supporting the proposal is to be included in the notice of meeting. The following information on nominees to the board of directors is to be posted on the company's web site at the same time that the notice of meeting is issued, and subsequently put before the shareholders' meeting:

- **age, principal education and work experience,**

- **duties in the company and principal duties in other companies and organisations,**
- **holdings of shares and other financial instruments in the company,**
- **material shareholdings and part-ownership in firms with which the company has business ties,**
- **if the member is considered to be independent of the company and of senior management as well as of major shareholders in the company. For directors not considered to be independent, the reasons are to be stated,**
- **on re-election, the year that the director was first elected to the board, and**
- **other information that may be important to shareholders in assessing the proposed member's competence and independence.**

2.2.2 At the shareholders' meeting, the chair or another member of the nomination committee is to:

- **report on how the nomination committee's work has been conducted,**
- **present and explain the nomination committee's proposals for appointments to the chair and other members of the board,**
- **present and explain the nomination committee's proposals on terms of remuneration for board work and proposals on the division of board fees among the chair, other directors and remuneration for committee work, and**
- **present and explain proposals on remuneration for the nomination committee, if any,**

The report on the how the nomination procedures were followed is to cover the nomination of both board members and auditors. The nomination committee's proposals on remuneration terms for the work of the board do not need the specific approval of the shareholders' meeting as the meeting decides on directors' fees and all other remuneration for board work in accordance with 2.2.4. The nomination committee's

responsibility to present and explain proposals on auditors and their fees is stated in 2.4.2.

2.2.3 Persons proposed for election to the board are to be present at the meeting, if possible, so that they can introduce themselves and answer questions from shareholders.

2.2.4 The shareholders' meeting is to decide on directors' fees, divided between the chair, other board members and possible remuneration for committee work under 2.2.1, if any.

Directors' fees and other remuneration for board work may be fixed or variable.

2.2.5 Directors are not to participate in incentive schemes aimed at top management or other employees. If such a scheme is intended solely for directors, it is to be prepared by the owners or the nomination committee and the shareholders' meeting is to decide on the scheme.

Even though the managing director is a member of the board, he or she may participate in incentive schemes intended for management and employees.

2.2.6 The company's remuneration policy for directors is to be stated in the corporate governance report. Each director's fees and other remuneration from the company are to be reported; the information is to include all the particulars stated in the rules of the Swedish Industry and Commerce Stock Exchange Committee on benefits for senior management.

2.3 Evaluating the Board

2.3.1 The nomination committee is to evaluate the board of directors.

According to 3.4.4, the chair of the board is to see that an evaluation of the work of the board is conducted. This evaluation should form part of the nomination committee's evaluation.

2.3.1 A statement on how the evaluation of the board of directors was conducted is to be presented in the corporate governance report.

2.4 Auditors' Selection and Fees

2.4.1 The nomination committee's proposals on auditors and audit fees are to be included in the notice of the general shareholders' meeting. The following information on a proposed auditor, or auditor in charge and the audit firm of the auditor in charge, is to be given on the company's web site at the same time that the notice of meeting is announced and subsequently presented at the shareholders' meeting:

- **the audit services performed by the auditor or the auditor in charge in other large companies,**
- **the audit services provided to companies closely related to the company's major shareholders or the managing director,**
- **on re-appointment, the year that the auditor was first appointed or became auditor in charge and the length of the audit firm's engagement, and**
- **other information that may be important to shareholders in assessing the competence and independence of the auditor, or auditor in charge and the audit firm of the auditor in charge.**

Included in the other information that may need to be presented is the extent of the services provided the company by a newly engaged auditor or audit accounting firm in the past few years or the existence of any strong ties between senior company officials and the proposed auditor or audit accounting firm.

2.4.2 The chair or another member of the nomination committee is to present the committee's proposals on the selection of auditors and audit fees at the shareholders' meeting. A proposed auditor is to be present at the meeting, if possible, to be introduced and answer questions from shareholders.

2.4.3 The following information on the auditor, or auditor in charge and the audit firm of the auditor in charge, is to be presented in the corporate governance report:

- **the services performed by the auditor or the auditor in charge in other large companies,**

- **the auditing services provided to firms closely related to the company's major shareholders or the managing director,**
- **the year that the auditor was first appointed or became auditor in charge and the length of the audit firm's engagement, and**
- **other information that may be important to shareholders in assessing the competence and independence of the auditor, or auditor in charge and the audit firm of the auditor in charge.**

2.5 Evaluating the Audit Process

2.5.1 Before the selection of the auditor, the nomination committee is to evaluate the audit work.

In accordance with 3.8.4, the audit committee is to evaluate the audit process. This evaluation should form part of the nomination committee's evaluation.

2.5.2 On those occasions when the selection of the auditors has taken place a statement on how the evaluation of the audit process has been conducted is to be presented in the corporate governance report.

3 The Board of Directors

The board is responsible for the organisation and management of the company's affairs in accordance with current laws and other regulations *that apply to the company.*

3.1 The Role of the Board of Directors

The board's principal tasks are to establish a business strategy for the company, ensure that the company has effective management, monitor and follow up senior management's activities and make sure that the company's owners and other interested parties are informed of the company's progress and financial position.

3.1.1 The board, based on what is in the best interest of the company and its shareholders, is to set objectives for the company's business operations and make sure that

the company has an appropriate strategy, organisation and operational management for achieving these objectives.

3.1.2 The board is to see that the company has an effective management team. The board is to monitor and evaluate the management team's performance on a regular basis. The board is to appoint and, if necessary, dismiss the company's managing director.

3.1.3 The board is regularly to follow up and evaluate the company's operations against the objectives and guidelines established by the board. The board is to ensure that control of the company's financial situation is satisfactory, that the company's risk exposure is reasonable, that accounting and financial management are of high quality and are monitored in a satisfactory manner, and that the company has good internal control.

3.1.4 The board is to ensure that the company, in its reporting to owners, the capital market and others, gives an accurate picture of the company's progress, profitability, financial position and risks.

3.1.5 The board is to make sure that there is a satisfactory process to monitor the company's compliance with the regulations in force covering company operations.

3.1.6 The board is to ensure that the necessary guidelines are established on the company's ethical conduct in its relations with employees, customers, suppliers and society in general.

3.2 Size and Composition of the Board

The board is to have the qualifications and experience required for its independent and effective management of the company's affairs. However, the board should not exceed the size that will allow it to employ simple and effective methods of work and to enable each director to feel a personal responsibility and commitment.

3.2.1 With the company's operations, phase of development, and other conditions taken into consideration, the board is to have an appropriate composition, exhibiting diversity and breadth in the directors' qualifications, experience

and background. Each director is to be capable of coming to an independent judgement on the important issues facing the board.

3.2.2 An equal gender distribution on the board is to be an aim.

3.2.3 The managing director is the only member of senior management who may be a member of the board.

3.1.4 The board is to have a maximum of nine directors chosen by the shareholders' meeting. There are to be no deputies to the directors chosen by the shareholders' meeting.

For certain types of companies, especially banks, larger boards may be necessary. For most other companies, boards that are smaller than specified in the rule are preferable.

3.2.5 The majority of the directors chosen at the shareholders' meeting are not to have any relation to the company or its senior management that could call into question the director's independence of the company and its senior management. A director is generally not considered to be independent:

- **if the director is employed or has been employed in the company within the past three years or in a closely related firm in which the company, directly or indirectly, holds at least 10 per cent of the shares or participation or the votes or a financial interest that gives the right to at least 10 per cent of the return. If one company has more than 50 per cent of the capital or votes in a second company, then the first company is considered to have indirect control over the second company's ownership of other companies,**
- **if the director is a spouse, common-law spouse, registered partner, brother or sister, or other member of the immediate family of a person in senior management,**
- **if he or she receives significant remuneration for advice or services in addition to board work from the company or from someone in senior management,**
- **if the director has extensive business ties or other extensive financial dealings with the company in his or**

her capacity as customer, supplier or partner, either personally or as part of the senior management or the board or by joint ownership in another company having such a business relationship with the company, or

- **if the director belongs to senior management in another company and a director in that other company belongs to the senior management in the first company.**

Relationships other than those just enumerated may also cause a director not to be considered independent. For example, if a director has been part of the board for a long time, his or her independence may be called into question in some instances.

"Closely related to the company and senior management" also refers to closely related to a group or its management.

The fourth point is not intended to apply to the usual bank-customer relationship.

3.2.6 At least two of the directors who are independent of the company and senior management are also to be independent of the company's major shareholders. A major shareholder refers to owners who directly or indirectly control more than 10 per cent of the shares or votes in a company. If one company has more than 50 per cent of the capital or votes in a second company, the first company is considered to have indirect control of the second company's ownership in other companies,

A person who is a director on a major shareholder's board or is employed by or has extensive duties for a major shareholder is considered dependent. A person may also be considered to lack independence owing to other relations with major shareholders.

3.2.7 Members of the board are to be appointed for one year at a time. If a director has been on the board for eight or more years, the reasons behind a proposal for re-election are to be explicitly stated. The same provision applies to the election or re-election of directors who have reached the age of seventy.

Turnover on the board of director needs to be gradual. In order to give the nomination committee independence in this respect, all members of the board should be elected or re-

elected annually. For directors who have been on the board for eight or more years, particular consideration should be given to the director's chances of contributing further to the work of the board and the board's need of renewal. A similar scrutiny should be made before the election or re-election of a member who has reached seventy years of age.

3.2.8 In the corporate governance report, the following information about each director is to be provided:

- **membership on board committees,**
- **age, principal education and work experience,**
- **duties in the company and principal duties in other companies and organisations,**
- **holdings of shares and other financial instruments in the company,**
- **material shareholdings and part ownership in firms with which the company has business ties,**
- **if the member is considered to be independent of the company and of senior management as well as major shareholders in the company. For directors not considered to be independent, the reasons are to be stated,**
- **the year that the member was first elected to the board, and**
- **other information that may be important to shareholders in assessing the proposed director's competence and in**dependence.

3.3 The Directors

The director's position in relation to the company is similar to that of a trustee. This means that the director is obliged to devote the time and the care required to look after the interests of the company and thus of the shareholders in the best possible manner.

3.3.1 The director is to act in the best interests of the company and the shareholders.

The director must not put personal interests ahead of the best interests of the company or the shareholders or use the

company's business opportunities for personal ends. The director must not favour certain shareholders' interests to the detriment of the company or other shareholders.

3.3.2 The director is to have the knowledge of the company's operations, market and other external conditions required for making independent judgements of the company's business affairs and to contribute constructively to discharging the board's duties.

3.3.3 New directors are to receive an introductory training about the company, its operations, organisation, market and so forth and any other training that the chair of the board and the directors mutually agree is suitable to enable directors to discharge their duties.

Introductory training for new directors should be individually tailored to meet each director's needs, sufficiently comprehensive that directors soon are able to make a constructive contribution to the work of the board and completed no later than six months after they become members of the board.

3.4 The Chair of the Board of Directors

The chair of the board has a unique position with an explicit responsibility for seeing that the work of the board is well organised and efficiently conducted and that the board discharges its duties.

3.4.1 The chair of the board is to be elected at the shareholders meeting. If the chair relinquishes his or her duties during the mandate period, the board is to elect a chair from amongst its members to serve until the next shareholders' meeting.

3.4.2 If the nomination committee proposes that the outgoing managing director, soon after leaving that position, become the chair, the reasons for the proposal are to be explicitly stated.

Whether or not it is appropriate to elect the outgoing managing director, soon after leaving that position, to chair the board, must be decided on a case-by-case basis. However, like individual directors, a chair of the board who has been managing director in the company should not act in a manner

that may negatively affect the work of the new managing director.

3.4.3 The chair of the board is not to be employed in the company as a "group chief executive officer". If the chair of the board has duties assigned by the company in addition to those of the chair, these may not involve tasks that are part of the managing director's responsibilities in the day-to-day management of the company. In such cases, the division of work between the chair and the managing director is to be clearly stated in the formal work plan of the board of directors and in the board's instruction to the managing director.

3.4.4 The chair is to ensure that the work of the board is pursued effectively and that the board discharges its duties. Specifically, the chair is to:

- **organise and run the board's work, encourage an open and constructive discussion in the board in which all the directors participate, and create the best possible conditions for the board's work,**
- **make sure that the board regularly updates and improves its knowledge of the company and its operations and receives any other training required to conduct the board's work effectively,**
- **be receptive to owners' views and communicate these views to members of the board,**
- **be the spokesperson for the company on matters concerning appointing and dismissing the managing director and senior management's terms of employment,**
- **have regular contact with and function as a discussion partner and support for the company's managing director and evaluate the managing director's work,**
- **see that the board receives information that is satisfactory and a sufficient basis for the board's decision-making,**
- **verify that the board's decisions are carried out, and**
- **see that the board evaluates its work annually.**

One of the chair's tasks just noted is to keep in contact with the company's shareholders so that the board is familiar with their views on the company's overall goals and strategy and other important matters. Even though the principal contact between the shareholders and the board is at the shareholders' meeting, there is reason to provide shareholders with an opportunity to express their views on the board's management of the company's business affairs on other occasions as well. Such contacts must not result in the board taking instructions from and thus favouring certain shareholders or the board being selective in the shareholders to whom it communicates information.

The chair of the board should report the result of the board's evaluation of its work to the nomination committee in sufficient time that it can be used by the committee in its work. The evaluation should follow a structured process, adapted to the company's circumstances and aided by external expertise, if deemed necessary.

3.5 The Work of the Board of Directors

3.5.1 The board's statutory instructions in the form of its formal work plan, instruction to the managing director and reporting instruction are to be tailored to the company's circumstances and are to be so clear, detailed and functional that they can serve as guiding documents for the board's work. At least once a year, the board is to conduct a thorough review of the relevance and currency of all instructions.

3.5.2 The board may establish special committees to prepare the board's business in specific areas. The establishment of committees must not cause the board to lose its overall view and control of the company's business activities Nor must the board be any less well informed. The formal work plan of the board is to specify the tasks and decision-making authority that the board has delegated to committees and the manner in which the committees are to report to the board. Committees are to keep minutes of their meetings.

The board's responsibility and supervisory duties may not, under the law, be transferred to a committee of the board.

For the audit committee, see 3.8.3; for the remuneration committee, see 4.3.1.

3.5.3 The board is to hold meetings to the extent necessary to give due consideration to the matters that fall within its area of responsibility.

The board's work must be organised in such a way that the board can devote adequate time to all important issues. Regular reports by the board should be structured so that monitoring and follow-up do not take too much of the board's time in order to ensure that strategic issues in particular get the attention they require.

3.5.4 Only directors, the managing director, the secretary to the board and adjunct members may attend board meetings. Any adjunct members and the extent to which they have participated in the board meeting are to be noted in the minutes of the meeting.

3.5.5 At least once a year, the board is to evaluate the managing director's work. At that time, neither the managing director nor any other company executive is to be present.

3.5.6 The chair of the board, after consulting with the managing director, is to draw up proposals for the agenda for the board meeting and see that each item is well prepared and effectively pursued.

3.5.7 The basis for a decision and the proposed decisions on a matter are to provide an objective, full and relevant picture of the matter to be decided. Decisions are not to be taken on important matters that have not been placed on the agenda, unless the board unanimously decides to do so.

By law, the board may not take a decision on a matter unless all the directors have received, to the extent possible, a satisfactory basis for deciding the matter. Written material for the board meeting should normally be sent to directors no later than one week before the meeting.

3.5.8 Directors are to make an independent judgement on each matter to be considered by the board and express the views and take the positions this judgement entails. Directors are to request whatever supplementary infor-

mation they believe is necessary for the board to make well-founded decisions.

3.5.9 The board is to be assisted by a competent board secretary who has the task of seeing that the work of the board is properly conducted and keeping the minutes of board meetings.

3.5.10 The minutes of the board are to be a clear representation of the matters discussed, the supporting material available for each item and the content of the decisions taken. Once the minutes are written, they are to be sent or made available to directors as soon as possible after the board meeting.

That the minutes have been written means that they have been approved by the chair of the board and the person verifying the minutes without needing to be signed by them. Written minutes should be sent or otherwise made available to board members within two weeks of the meeting.

3.5.11 The corporate governance report is to provide information on the division of work in the board. A statement is to be presented on how the work of the board has been conducted during the most recent financial year, including the number of board meetings, average attendance and the name of the secretary at the board meetings. In addition a statement is to be presented on the duties of board committees, if any.

3.6 The Board of Directors and Financial Reporting

The board is responsible for presenting financial reports that are transparent and provide an accurate picture of the company's financial position and prospects.

3.6.1 The company's financial reports are to be in accordance with generally accepted accounting principles for a stock market company. A financial report is to state the accounting standards on which it is based.

Financial reports refer to the annual report, interim reports, year-end press release and other reports containing financial information, such as prospectuses or press releases.

If the financial reports contain information other than that called for in the International Financial Reporting Standards,

it is especially important to state the grounds (rules and regulations, etc.) on which this information is based.

The annual report should make clear what information, if any, is unaudited.

3.6.2 The board of directors and the managing director, immediately before signing the annual report, are to certify that to the best of their knowledge, the annual accounts have been prepared in accordance with generally accepted accounting principles for a stock market company and that the information presented is consistent with the actual conditions and that nothing of material value has been omitted that would affect the picture of the company presented in the annual report.

The rule does not entail any change in responsibility for the annual report and its contents on the part of the board or the managing director. Its aim is to clarify this responsibility.

3.6.3 Each year the board is to request from the financial director, or the person with equivalent responsibility, a written assurance stating that the company's financial reports meet the requirements of the existing regulation in all essential respects. The assurance is also to state other circumstances that are important to the board in its assessment of the quality of the financial reports.

3.7 The Board and Internal Control and Internal Auditing

The board is responsible for the company's internal control, which has the overall aim of protecting the shareholders' investment and the company's assets.

3.7.1 The board is to see that the company has a sound system of internal controls. The board is to keep informed of this system on an ongoing basis and to conduct regular evaluations of how well it functions. In the corporate governance report, the board is to report how that part of internal control dealing with financial reporting is organised and how well it has functioned during the most recent financial year.

3.7.2 Companies that do not have a special internal audit function are annually to evaluate the need of such a function

and explain the position they have taken in the corporate governance report.

The examination conducted by internal audit is to be independent and based on an audit plan established by the board and performed by persons with documented audit experience.

3.8 The Board - Auditor Relationship

The board is responsible for seeing that the company has a formal and transparent system that ensures that the principles established for financial reporting and internal control are observed and that appropriate relations with the company's auditor are maintained.

3.8.1 The board is to document and present information in the corporate governance report on the manner in which the board ensures the quality of the financial reports and internal control and communicates with the company's auditor.

3.8.2 At least once a year the board is to meet the auditors without the presence of the managing director or any other company executive.

3.8.3 The board is to establish an audit committee consisting of at least three directors. The chair of the board of directors may be a member of the committee, but is not to be its chair. The other members of the committee are to be independent of the company and senior management. At least one member of the committee is to be independent of the company's major shareholders.

3.8.4 The audit committee is to:

- **be responsible for the preparation of the board's work to ensure the quality of the company's financial reports,**
- **meet the auditors regularly to keep informed of the aims and scope of the audit work and to discuss coordination between external and internal audit and views on the company's risks,**

- **establish guidelines on other services in addition to audit that the external auditors are allowed to provide to the company,**
- **evaluate the audit work, and**
- **assist the company's nomination committee in preparing proposals on auditors and audit fees.**

To ensure the quality of the financial statements, the committee normally has to consider all critical accounting questions and the financial reports presented by the company. The committee is presumed to consider matters such as internal control, regulatory compliance, material uncertainty in reported values, uncorrected errors, post-statement events, possible improprieties and other circumstances that may affect the quality of the financial statement information.

The audit committee should report its evaluation of the audit process to the nomination committee in sufficient time that it can be used by the nomination committee in its work.

4 Senior Management

The managing director is to run the day-to-day operations in accordance with the board's guidelines and instructions and see that the company's accountancy and management of assets are conducted in a satisfactory manner. The managing director is responsible for providing the board with the information on the company and its operations and other data that the board needs in its work.

4.1 The Managing Director's Duties

4.1.1 The managing director is to act in the best interests of the company and the shareholders.

The managing director must not put personal interests ahead of the best interests of the company or the shareholders or use the company's business possibilities for personal ends. The managing director must not favour certain shareholders' interests to the detriment of the company or other shareholders.

4.1.2 The managing director is to see that the board gets the objective, full and relevant information basis that it requires for making well-founded decisions. The managing director is to see that the board is kept informed of the progress of the company's business operations between board meetings.

4.1.3 The corporate governance report is to present the following information about the managing director:

- **age, principal education and work experience,**
- **important duties in other companies and organisations,**
- **holdings of shares and other financial instruments in the company, and**
- **material shareholdings and part ownership in firms with which the company has business ties.**

4.2 Appointment of the Managing Director

4.2.1 The board appoints and dismisses the managing director.

4.2.2 The managing director is not to serve as a member of the board of directors of more than two other stock market companies. The managing director is not to chair the board of another stock market company.

The rule does not apply to the managing director's participation on boards of subsidiaries or companies associated with investment companies and other similar companies.

4.3 Senior Management Remuneration

4.3.1 The board is to establish a remuneration committee with the task of preparing proposals on remuneration and other terms of employment for senior management and presenting these proposals to the board. The chair of the board may chair the remuneration committee. The other members of the committee are to be independent of the company and senior management.

4.3.2 The board is to propose a policy for remuneration and other terms of employment for senior management for

approval by the shareholders' meeting. The policy is to provide information on and state the reasons for the proposed principles respecting:

- **fixed versus variable remuneration**
- **other benefits,**
- **pension,**
- **notice of dismissal period, and**
- **severance pay.**

The proposal is to specify the layer of senior management to whom the policy applies and the procedures followed by the board in preparing executive remuneration matters.

Variable remuneration refers to participation in incentive schemes. As stated in 1.1.3 and 1.1.5, the proposal is to be included in the notice of shareholders' meeting and made available at the company and on the company's web site no later than two weeks before the shareholders' meeting.

4.3.3 The board is to decide the remuneration and other terms of employment for the company's managing director in accordance with the policy determined at the shareholders' meeting. The managing director decides the remuneration and other terms of employment for other members of senior management in accordance with the same policy.

Even though the board does not decide the remuneration of members of senior management who are directly under the managing director, it is often good practice for the terms of remuneration decided by the managing director to be submitted to the board or the remuneration committee for approval before they come into effect.

4.3.4 When applicable, the board is to present proposals on share and share price related incentive schemes for the managing director and other senior executives to the shareholders' meeting for approval. At the shareholders' meeting, the chair of the board is to explain proposals for such schemes and report the estimated cost to the company and the possible dilution factor for shareholders.

All incentive schemes related to share and share prices for senior management, even those that only lead to costs for the company, for example, schemes based on synthetic options, are to be approved by the shareholders' meeting. As stated in 1.1.3 and 1.1.5, the proposal is to be included in the notice of meeting and made available at the company and on the company's web site no later than two weeks before the shareholders' meeting.

4.3.5 The board is to present and explain the proposed remuneration and other terms of employment for senior management at the annual general shareholders' meeting and answer questions on remuneration paid to senior management in the most recent financial year.

Since the remuneration committee prepares and presents proposals to the board on remuneration and other terms of employment for senior management in accordance with 4.3.1, including incentive schemes, the chair of the committee should, under 1.3.2, be prepared at the request of the board to report and explain the proposal at the shareholders' meeting.

4.3.6 The corporate governance report is to state the policy for remuneration and other terms of employment for senior management approved at the most recent shareholders' meeting as well as the layer of management covered by the policy. A statement on the procedures followed by the board in preparing matters dealing with the remuneration of senior management is to be included.

5 Auditors

5.1 The Auditors' Duties

The company's auditor, in accordance with good auditing practice, is to examine the accounts and the management of the company by the board and the managing director.

5.1.1 The shareholders' meeting, the board and the managing director must not give the auditors instructions that might limit the possibility of performing the audit in accordance with generally accepted auditing standards.

5.1.2 The company's auditor is to issue a special auditor's report on the board's statement on internal control. The

special auditor's report is to be published together with the board's statement in the corporate governance report.

5.1.3 The company's six- or nine-month report is to be the subject of a review by the auditors.

6 Corporate Governance Report

6.1 A special report on corporate governance is to be attached to the company's annual report. The report is to include a statement on whether or not it has been audited.

The report is to be included in the printed annual report but does not form part of the legal annual report. A compilation of the information that the Code requires the report to contain is given in the Appendix.

6.2 Companies that apply the Code are to state in the corporate governance report that the company is applying the code and give a brief description of how this is done. The company is to indicate those rules in the Code that it deviates from. The reasons for each deviation are to be clearly explained.

The basis for the Code is that the companies applying the Code give a clear account of how this is done. A company may deviate from individual rules if it reports the deviation and the reasons for the deviation. Each deviation from the Code is to be explained.

6.3 The company is to have a special section on its web site for corporate governance matters, in which the information included in the corporate governance report is to be updated regularly and can be retrieved together with other information required under the Code.

Companies applying the Code are to make the corporate governance information easily accessible to shareholders and other interested parties by putting it all in the same place on the company's web site. The company is to update the information regularly. This means that a large part of the information called for un-

der the requirement for a corporate governance report in accordance with 6.2 is to be posted on the web site before the report is published in the annual report. A compilation of the Code's information requirements for the report and the web site can be found in the Appendix.

Appendix
Summary of the Code's Information Requirements

This appendix gives a summary of the Code's information requirements for information in the annual report and on the web site. Reference is made to the relevant rules in section III Rules for Corporate Governance. The Appendix does not contain any information requirements in addition to those found in section III.

1 Implementing the Code

Under 6.1, companies following the Code are to attach to their annual report a special report on corporate governance issues. The report is to state whether or not it has been audited. In the report, the company, in accordance with 6.2, is to state that it is applying the Code and describe in general terms how this is accomplished. Any deviation from the Code, and the reasons for it, are to be clearly explained. Subsequently, the report is to contain the special information that the Code requires; see also the sections that follow. All the information included in the corporate governance report is to be given in a special section on corporate governance issues on the company's web site, as provided in 6.3. However, one difference is that the information on the web site is to be current. Thus it is to be updated regularly, while the corporate governance report provides a summary of corporate governance in the most recent financial year.

2 Information in the Annual Report

The Code has certain requirements on the content of the annual report in addition to the corporate governance report.

Under 3.6.1 the annual financial report is to specify the regulatory body on which it is based.

Under 3.6.2 the board and the managing director, immediately before signing the annual report, are to certify that to the best of their knowledge, the annual report is prepared in accordance

with generally accepted accounting principles for stock market companies, the information presented agrees with the actual conditions and nothing of material importance has been omitted that could affect the picture of the company created by the annual report.

3 Corporate Governance Report Contents

Under the Code, the corporate governance report and the section on corporate governance issues posted on the company's web site are to include the information given below.

3.1 The Board of Directors

3.1.1 Under 3.5.11, the following information on the work of the board is to be presented:

- the division of work in the board,
- a statement on how the work of the board has been conducted during the most recent financial year, including:
  - the number of board meetings,
  - average attendance, and
  - the name of the secretary at board meetings,
- a statement on the duties of board committees, if any.

3.2.2 Under 2.2.6, the company's remuneration policy for directors is to be stated.

3.2.3 Under 2.3.2, a statement on how the evaluation of the board of directors was conducted is to be presented.

3.2.3 Under 3.2.8, the following information is to be presented for each director:

- membership on board committees,
- age, principal education and work experience,
- duties in the company and principal duties in other companies and organisations,
- holdings of shares and other financial instruments in the company,

- material shareholdings and part ownership in firms with which the company has business ties,
- if the member is considered to be independent of the company and of senior management as well as of major shareholders in the company. For directors not considered to be independent, the reasons are to be stated,
- the year that the member was elected to the board, and
- other information that may be important to shareholders in assessing the proposed member's competence and independence.

3.1.5 Under 2.2.6, information on each director's fees and other remuneration from the company are to be presented; the information is to include all the particulars stated in the rules of the Swedish Industry and Commerce Stock Exchange Committee on benefits for senior management.

3.2 The Nomination Committee

3.2.1 Under 2.1.4, the following information on the nomination committee is to be presented:

- a statement on how the nomination committee's work has been conducted,
- its composition. If a member has represented a particular owner, that owner's name is to be given, and
- remuneration of the nomination committee, if any.

3.3 Senior Management

3.3.1 Under 4.3.6, information is to be presented on the company's policy for remuneration and other terms of employment, including:

- the layer of management covered by the policy, and
- a statement on the procedures followed by the board in preparing matters dealing with the remuneration of senior management.

3.3.2 Under 4.1.3, the following information on the managing director is to be presented:

- age, principal education and work experience,
- important duties in other companies and organisations,
- holdings of shares and other financial instruments in the company, and
- material shareholdings and part-ownership in firms with which the company has business ties.

3.4 Auditors

3.4.1 Under 2.4.3, the following information on either the auditor, or the auditor in charge and the audit firm of the auditor in charge, is to be presented:

- the services performed by the auditor or the auditor in charge in other large companies,
- the auditing services provided to firms closely related to the company's major shareholders or the managing director,
- the year that the auditor was appointed or became auditor in charge and the length of the audit firm's engagement, and
- other information that may be important to shareholders in assessing the competence and independence of the auditor, or auditor in charge and the audit firm of the auditor in charge.

3.4.2 Under 2.5.2, if an auditor has been selected, a statement is to be presented on how the evaluation of the audit process has been conducted.

3.5 Internal Control, Financial Reporting and Other Matters

3.5.1 The following information on the company's internal control and supervision of internal control is to be provided:

- under 3.7.1, the board is to report how that part of internal control dealing with financial reporting is organised and how well it has functioned during the most recent financial year,

- under 3.7.2 companies that do not have a special internal audit function are to explain the position they have taken,
- under 3.8.1, the board is to submit information on the manner in which the board ensures the quality of internal control, and
- under 5.1.2, the company's auditor is to issue a special auditor's report on the board's statement on internal control. The special auditor's report is to be published together with the board's statement.

3.5.2 Under 3.8.1, the board is to submit information on the manner in which the board ensures the quality of the financial reports and communicates with the company's auditor,

4 Web Site Information on Shareholders' Meetings

Under the Code, in addition to keeping the information included in the corporate governance report current and accessible on the company's web site, the company is to post information related to its shareholders' meetings on its web site as described below.

4.1.1 The following information on a forthcoming shareholders' meeting is to be made available on the company's web site:

- under 1.1.1, the time and location of the next shareholders' meeting. Information on the annual general shareholders' meeting is to be provided at least six months before the meeting and in the event of an extraordinary shareholders' meeting, as soon as the board has decided to hold the meeting, and
- under 1.1.2, the shareholders' right to have a matter considered at the shareholders' meeting, to whom such a request is to be made and by what time the request must reach the company in order to guarantee its inclusion in the notice of meeting and thus be discussed at the meeting. This information is to be made available in good time before the meeting.

4.1.2 Before the shareholders' meeting the following documents are to be made available on the web site and at the same time, sent or made available to shareholders:

- under 1.1.3, the notice of shareholders' meeting,
- under 1.1.4 a statement from the Securities Council in its entirety or the principal content of the statement if the company obtains a statement of importance to the company's shareholders concerning certain matters to be considered at the shareholders' meeting, and
- under 1.1.5, proposals on decisions at the shareholders' meeting; proposals made by the board are to be made available as soon as possible before the meeting, but at least two weeks before the meeting.

4.1.3 The following information on the nomination committee and its work is to be made available on the company's web site:

- under 2.1.3, the names of the members of the nomination committee and, if they represent a particular owner, that owner's name and the latest date for shareholders to submit proposals to the nomination committee. This information is to be made available at least six months before the annual general shareholders' meeting.
- the nomination committee's proposals, which are to be made available no later than the date when the notice of shareholders' meeting is issued, specifying:
  - the chair and other members of the board,
  - the remuneration policy for board work, and
  - directors' fees, divided between the chair, other board members, and possible remuneration for committee work under 2.2.1,
  - auditors and audit fees under 2.4.1, and
  - the nomination committee's remuneration, if any, under 2.1.6,
- under 2.2.1 the following information on the nomination committee's recommendations for directors is to be made available no later than the date when the notice of shareholder's meeting is issued:
  - age, principal education and work experience,
  - duties in the company and principal duties in other companies and organisations,

- holdings of shares and other financial instruments in the company,
- material shareholdings and part-ownership in firms with which the company has business ties,
- if the member is considered to be independent of the company and of senior management as well as of the company's major shareholders. For directors not considered to be independent, the reasons are to be stated,
- on re-election, the year that the director was first elected to the board, and
- other information that may be important to shareholders in assessing the proposed member's competence and independence.

• under 2.4.1 the following information on the auditor, or auditor in charge and audit firm of the auditor in charge, recommended by the nomination committee is to be issued no later than the date that the notice of shareholders' meeting is issued:

- the audit services performed by the auditor or auditor in charge in other large companies,
- the audit services provided to companies closely related to the company's major shareholders or the managing director,
- on re-appointment, the year that the auditor was first appointed or became auditor in charge and the length of the audit firm's engagement, and
- other information that may be important to shareholders in assessing the competence and independence of the auditor or auditor in charge and the audit firm of the auditor in charge.

4.1.4 The following information on the board's proposals is to be available on the web site:

• under 4.3.2 the following information on the policy for remuneration and other terms of employment for senior management proposed by the board is to be made available to shareholders no later than the proposal itself.

- information and explanation of the principal terms for:

  - fixed versus variable remuneration,
  - other benefits,
  - pension,
  - notice of dismissal period, and
  - severance pay,
- the layer of senior management to whom the policy applies, and
- the procedures followed by the board in preparing executive remuneration matters.

- under 4.3.4, the board's proposal, if any, on share and share price related incentive schemes for the managing director and other senior executives, no later than the time that the proposal is made available to shareholders.

4.1.5 Under 1.5.1, the company is to make the minutes of the most recent annual general shareholders' meeting and any subsequent extraordinary meetings available on the web site.

Separate Opinion of Karin Forseke

The initiative to develop a Swedish code of conduct for corporate governance is a very positive step as there is without doubt room for improvement in Swedish corporate governance. Improved corporate governance should lead to greater confidence, nationally and internationally, in Swedish business. This should contribute towards transparency and the ability of Swedish business to attract domestic and international capital. Good corporate governance is founded on clear responsibility and a balance of power between different corporate bodies.

However, in my opinion, the proposed code has not given sufficient consideration to the extensive work conducted internationally in developing similar codes and the experience that has been gained in the area internationally, for example in the British Combined Code. A Swedish code that deviates from the international standard in both definition and substance risks creating ambiguity and bureaucracy, an outcome that would reduce the attractiveness of listing on the Swedish stock market and have a hampering effect on smaller listed companies.

As mentioned, a principal aim of a Swedish code of conduct for corporate governance is to strengthen the competitiveness of the Swedish business sector as an investment alternative for both domestic and foreign investors. Within the general legislative framework, there is a need to develop recommendations that create clarity, transparency and good working conditions for companies listed in Sweden. All investors, both institutional and retail, must have the utmost confidence in the governance of companies. To be competitive and attract capital from investors outside Sweden requires well-defined rules and undisputed accountability. To introduce a code that deviates from international standards on key points is inappropriate.

As an example, the current proposal for a Swedish code of conduct for corporate governance uses a definition of ”independent” director that does not conform to the definition used in the British Combined Code. The latter defines ”independent” as independent of major shareholders, the company, and its senior management. In my opinion, it is unfortunate that a Swedish definition of ”independence” is being established that does not include independence from major shareholders. Differences in definitions will

lead to ambiguity concerning the corporate governance of Swedish businesses and thus mean a competitive disadvantage in comparison with investment regulations in other countries.

Moreover, a Board of Directors with a large number of independent directors, similar, for example to the provisions in the British Combined Code, would increase the board's likelihood of leading the company's business activities with impartiality and integrity.

With a larger number of independent directors, (as defined in the Combined Code), the board would also be able to perform most of the duties now proposed to be carried out by the nomination committee. I find it a matter of concern to give the nomination committee so many important responsibilities as members of the nomination committee are not regulated by Swedish company law. It would be more effective to make use of the competence found in a carefully selected board instead of constructing yet another body that is not familiar with business operations. One such example is that in all likelihood there must be important practical difficulties associated with the nomination committee conducting qualitative evaluation of a board if the only board member on the committee is the board's chairman. Compared with what board members are required to know about business operations, the requirements on members of nomination committees are clearly less comprehensive.

In conclusion I want to stress that a Swedish code of conduct for corporate governance must be a living document and in integral part of self-regulation.