

Finansinspektionen's Regulatory Code

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FFFS 2016:2

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Regulations amending Finansinspektionen's regulations (FFFS 2007:17) governing operations on trading venues;

Decided on 18 January 2016.

Finansinspektionen prescribes¹ pursuant to Chapter 4, section 5 of the Financial Instruments Trading Ordinance (2007:375) and Chapter 6 section 1, points 2, 50, 52, 53, 57 and 63 of the Securities Market Ordinance (2007:572) in respect of Finansinspektionen's regulations (FFFS 2007:17) regarding operations on trading venues

in part that Chapter 10, sections 1a and 5–7 and Chapter 11, section 4 shall be repealed,

in part that the headings immediately preceding Chapter 10, sections 5 and 7 shall be removed,

in part that Chapter 1, section 2, Chapter 3, section 2, Chapter 10, sections 1, 10, 11 and 13 and Chapter 12, section 11 shall have the following wording,

in part that a new chapter, Chapter 2a, shall be inserted, as well as a new section, Chapter 12, section 11a, with the following wording.

Chapter 1

Section 2 These regulations contain provisions regarding

- application for authorisation (Chapter 1a),
- ownership and management assessments (Chapter 2),
- notification of certain acquisitions (Chapter 2a),
- registration (Chapter 3),
- disciplinary board (Chapter 4),
- market surveillance at a stock exchange (Chapter 5),
- market surveillance at a securities institution (Chapter 6),
- post-trade information (Chapter 7),
- exceptions and waivers from the obligation to disclose pre- and post-trade information (Chapter 8),
- systematic internalisers (Chapter 9),
- information requirement for transferable securities issuers (Chapter 10),
- issuers without a registered office in the EEA (Chapter 11),
- language in the prospectus (Chapter 11a),
- filing and disclosure of information related to shareholdings (Chapter 12),

¹ Cf. Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, in the wording in accordance with Directive 2013/50/EU of the European Parliament and of the Council.

- acquisition and disposal of own shares by limited liability companies (Chapter 13),
- that the Swedish Securities Council decides in certain issues about public takeovers on the stock market and publishes certain such decisions (Chapter 14).

Chapter 2a Notification of certain acquisitions

Section 1 The provisions in this chapter apply to stock exchanges and clearing organisations which have received authorisation in accordance with the Securities Market Act (2007:528).

Section 2 An acquisition of property where the corresponding level of service is at least SEK 10 million and is the equivalent of at least 10 per cent and at the most 25 per cent of the own funds at the acquiring firm shall be reported to Finansinspektionen. Finansinspektionen shall be notified before the acquisition.

Chapter 3

Section 2 Registration of transferable securities on a stock exchange, unless otherwise specified in section 3, may only occur if conditions are in place to ensure that the transferable securities in question will be traded effectively with regard to the issuer's economic situation, organisation and ability to fulfil its disclosure obligation to the stock exchange and the market and if the application refers to

- a) transferable securities that are freely transferable,
- b) transferable securities, whose issuer or the person acting in the issuer's stead has not stopped making payments, declared bankruptcy or entered into liquidation, and
- c) transferable securities, whose issuer can produce annual reports and auditor's reports or corresponding historical information for the past three financial years (an issue prospectus issued during the period and semi-annual reports and, if prepared, interim reports from the period after the most recent annual report).

In addition to that set out in the first paragraph, registration of shares may only occur if the registration application refers to

- a) shares in a firm, the expected market value of which may not be less than EUR 1 million, or, if this value cannot be estimated, the firm's equity and tax-free reserves net the firm's applicable tax rate for the most recent financial year,
- b) subscribed and allocated shares where full and acceptable payment was made,
- c) shares of the same class already issued, and
- d) shares distributed to the public exceeding 25 percent of the subscribed share capital for all shares of the same class.

For convertible debt instruments, debt instruments with warrants, warrants unassociated with debt instruments (subscription warrants), issue certificates, interim certificates, participating loans, equity loans or convertible participation certificates, in addition to that set out in the first paragraph, registration may only occur if the transferable securities are issued by firms whose shares are or at the same time will be admitted to trading on a stock exchange.

For debt instruments other than those set out in the third paragraph, in addition to that set out in the first paragraph, registration may only occur if the registration application refers to

- a) loans, the total nominal amount of which is not less than EUR 200,000,

- b) debt instruments, the issuer of which has fulfilled its obligations with regard to the debt instruments, and
- c) all debt instruments ranking pari passu.

If the amounts referred to in the second or fourth paragraph are denominated in a different currency, the currency should be translated to EUR using the exchange rate at the time of registration.

Chapter 10

Section 1 This chapter contains provisions regarding the information obligation for an issuer who has Sweden as the home Member State in accordance with Chapter 1, sections 7–9a of the Securities Market Act (2007:528) and whose transferable securities in accordance with Chapter 1, section 4, first paragraph, point 2a or 2b of the Securities Market Act are admitted to trading or registered on a regulated market following application by the issuer. The provisions also apply to an issuer who has applied for admission to trading or registration.

An issuer of transferable securities in accordance with Chapter 1, section 4, first paragraph, points 2a or 2b of the Securities Market Act that do not have Sweden as their home Member State, if the transferable securities are registered or admitted to trading on a regulated market, shall apply section 13. If the securities are not admitted to trading on a regulated market in the issuer's home Member State, the issuer shall also apply sections 10 and 11. The issuer shall also apply section 12 for information disclosed in accordance with Chapter 15, section 6, first paragraph, point 3 of the Securities Market Act.

The provisions set out in sections 2–4, 10a–12, and 14 shall also apply to issuers whose transferable securities in accordance with Chapter 1, section 4, first paragraph, points 2a or 2b of the Securities Market Act are traded on a trading facility.

Section 10² An issuer shall ensure that a disclosure of information in accordance with Chapter 17, section 2 of the Securities Market Act (2007:528) shall take place in such a manner that the information is well-distributed to the public in Sweden and in other states within the EEA as simultaneously as possible.

Section 11 When information is submitted to the media for disclosure in accordance with Chapter 4, section 20 of the Financial Instruments Trading Act (1991:980) or Chapter 17, section 2 of the Securities Market Act (2007:528), it shall be stated that the information is being disclosed in accordance with these regulations. It shall also be stated to which issuer the information refers, the type of information and the date and time for when the information was distributed to the media for disclosure.

Information distributed to the media for disclosure shall be submitted as unedited and complete text. Information that shall be disclosed in accordance with Chapter 16, sections 4–6 of the Securities Market Act, however, can be distributed by the issuer informing the media about the website, in addition to the safekeeping function in accordance with Chapter 17, section 4 of the same act, where the information is available.

Section 13 An issuer that shall disclose information in accordance with Chapter 17 of the Securities Market Act (2007:528) or otherwise in accordance with these regulations,

² The change entails that the second paragraph has been removed.

shall disclose information in accordance with the following provisions regarding language.

For an issuer who has Sweden as the home Member State, the following applies:

a) If the issuer's transferable securities in accordance with section 1 are admitted to trading only on a Swedish regulated market, the information shall be disclosed in Swedish.

b) If the issuer's transferable securities in accordance with section 1 are admitted to trading on a Swedish regulated market and on a regulated market in one or more other states within the EEA, the information shall be disclosed in Swedish and in either English or a language approved by the competent authorities in the state(s).

c) If the issuer's transferable securities in accordance with section 1 are not admitted to trading on a Swedish regulated market but only on a regulated market in one or more other states within the EEA, the information shall be disclosed in Swedish, English or a language approved by the competent authorities in the state(s).

d) If the issuer does not have a registered office in a state within the EEA and its transferable securities in accordance with section 1 are primarily traded on a trading venue outside the EEA that corresponds to a regulated market, the information shall be disclosed in Swedish or English.

e) If the issuer has chosen Sweden as the home Member State in accordance with Chapter 1, section 8, first paragraph or section 9, second paragraph of the Securities Market Act, the information shall be disclosed in Swedish or English.

An issuer that has another state within the EEA as its home Member State shall disclose the information in Swedish or English.

An issuer of transferable securities in accordance with Chapter 1, section 4, first paragraph, point 2a or 2b of the Securities Market Act, the nominal value per unit of which on the day of issue corresponds to at least EUR 100,000, shall, regardless of that set out in the second and third paragraphs, disclose the information in Swedish, English or in a language approved by the competent authorities where the transferable securities are admitted to trading.

An issuer may disclose information in more languages than those prescribed in this provision. Finansinspektionen may decide on exemptions from the provisions in the second–fourth paragraphs.

The first-third paragraphs do not apply to information covered by the provisions in Chapter 12, section 12.

Chapter 12

Section 11 A notification of acquisitions or transfers of such financial instruments as those set out in Chapter 4, section 2, first paragraph, points 2 or 3 of the Financial Instruments Trading Act (1991:980) shall include the following information:

1. the notifier's name, personal identification number or another identification number or, if the notifier is a legal person, the firm, company registration number or other identification number and address,
2. holdings of voting rights after the transaction,

3. number and class of financial instruments after the transaction,
4. where applicable, the chain of controlling firms through which the financial instruments are held,
5. the date the threshold value was reached, exceeded or undercut,
6. for an instrument with an exercise period, where applicable, information about the day or period when the shares shall or can be acquired,
7. the maturity or expiration of the instrument,
8. the identity of the holder, and
9. the name of the underlying issuer.

The notification shall contain information about whether the financial instruments are such as those referred to in Chapter 4, section 2, first paragraph, points 2 or 3 of the Financial Instruments Trading Act and if they can be settled physically or in cash.

Section 11a A notification regarding an acquisition or transfer of financial instruments, in addition to that set out in sections 10 and 11, shall contain information about how the holding of voting rights is distributed between shares and depository receipts and other financial instruments.

These regulations shall enter into force on 01 February 2016.

ERIK THEDÉEN

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