

FINANS- INSPEKTIONEN

FINANSINSPEKTIONEN'S (SWEDISH FINANCIAL SUPERVISORY AUTHORITY) REGULATIONS

Finansinspektionen's General Guidelines regarding ownership and management assessment;

FFFS 1998:14

decided on 18 June 1998.

The scope of the General Guidelines

1 § These General Guidelines cover, where appropriate, exchanges, authorised marketplaces, clearing organisations, banks, insurance companies, credit market companies and securities companies.

The applicability of the General Guidelines

2 § The General Guidelines cover the information which, regarding suitability assessments of board members and senior executives, should be provided to Finansinspektionen in conjunction with the assessment of an application to conduct operations as an exchange, operations as an authorised marketplace, clearing operations, banking business, financing business, securities business or insurance business (section 3).

In addition, the General Guidelines also cover the information which should be provided to Finansinspektionen:

- in conjunction with the assessment of an acquisition of a qualifying holding of shares or interests in a legal person which is licensed to conduct operations under the supervision of Finansinspektionen (section 4);
- in conjunction with changes in the management of a legal person which holds a qualifying holding in a legal person which is licensed to conduct operations under the supervision of Finansinspektionen (section 5); and
- in conjunction with the appointment of a new board member, alternate board member, managing director or deputy managing director (i.e. a person who may serve in the managing director's stead) in an institution which is licensed to conduct operations and is covered by section 1 (section 6).

Applications for a licence to conduct operations

3 § With respect to natural persons who are owners of a qualifying holding of shares or interests, the information set forth in Appendix A should be appended to an application for a licence to conduct operations. Where the owner is a legal person, Appendix B should be used.

With respect to any board member, alternate board member, managing director and deputy managing director, the information set forth in Appendix C should be appended to an application for a licence to conduct operations.

Application for a licence to acquire a qualifying holding

4 § The information set forth in Appendix A should be appended to an application for a licence to acquire shares or interests in an institution. Where the acquirer is a legal person, Appendix B should be used with respect to the legal person and Appendix A, where appropriate (questions 1 and 3-12) with respect to any board member, alternate board member, managing director and deputy managing director in the acquiring legal person.

Presented below are several examples of when a person shall be deemed to hold a qualifying shareholding in an institution:

- a) where a person owns 10% or more of the share capital or voting capital of the institution (direct ownership);
- b) where a person owns 10% or more of the share capital or voting capital of a company which owns 100% of the share capital or voting capital of the institution (indirect ownership);
- c) where a person owns 100% of the share capital or voting capital of a company which, in turn, owns 10% or more of the share capital or voting capital of the institution;
- d) where a natural person *together with* children who are minors for whom he is guardian owns 10% or more of the share capital or voting capital of the institution (e.g. where the guardian owns 7% and the children 3%); or
- e) where a natural person owns 5% of the shares in an institution through direct ownership and 60% of the shares in another company which, in turn, owns 10% of the shares in the institution. The ownership stake in the institution amounts to (5% + 60% of 10%) 11% and is thereby a qualifying holding.

A holding which is below 10% may also be classified as a qualifying holding where the holding renders possible the exercise of significant influence over the management of the institution, e.g. where 3 persons each hold 8% of the total share capital and the remaining share capital is divided into many small holdings.

Change in the management of a legal person which holds a qualifying holding in an undertaking as referred to in section 1

5 § The information set forth in questions 1 and 3-12 in Appendix A should be appended to notification of a change.

Appointment of new board member, alternate board member, managing director or deputy managing director in an undertaking as referred to in section 1

6 § According to Finansinspektionen's regulations (FFFS 1998:13) regarding reporting obligations in conjunction with the appointment of certain senior executives, there exists an obligation to notify Finansinspektionen when a new board member, alternate board member, managing director or deputy managing director is appointed. The information set forth in Appendix C should be appended to such notification.

Applicable legislation

7 § Provisions regarding ownership assessments are set forth in:

- Chapter 2, section 3 and Chapter 3, sections 2-2 d of the Insurance Business Act (SFS 1982:713);
- Chapter 7, sections 10-14 b of the Banking Business Act (SFS 1987:617);

- Chapter 2, section 3 of the Banking Companies Act (SFS 1987:618);
- Chapter 2, section 1 and Chapter 6, sections 3a-3e of the Securities Operations Act (SFS 1991:981);
- Chapter 11, sections 2a-e of the Securities Exchange and Clearing Operations Act (SFS 1992:543);
- Chapter 2, section 1 and Chapter 5, sections 11-15b of the Financing Business Act (SFS 1992:1610); and
- Chapter 2, section 2 of the Members' Banks Act (SSS 1995:1570).

Provisions regarding suitability assessments of board members, alternate board members, managing directors or deputy managing directors are set forth in:

- Chapter 2, section 3 of the Insurance Business Act;
- Chapter 2, section 3 of the Banking Companies Act;
- Chapter 2, section 3 of the Savings Banks Act (SFS 1987:619);
- Chapter 2, section 1 of the Securities Operations Act;
- Chapter 2, section 2, Chapter 7, section 2 and Chapter 8, section 2 of the Securities Exchange and Clearing Operations Act;
- Chapter 2, section 1 of the Financing Business Act; and
- Chapter 2, section 2 of the Members' Banks Act.

These General Guidelines shall enter into force on 1 July 1998, whereupon Finansinspektionen's General Guidelines (FFFS 1997:15) regarding ownership and management assessments shall be repealed.

CLAES NORGRÉN

Björn Wendleby
(Securities Market Division)

1. The applicant's full name, personal identification number and address.

2. To which undertaking/institution does the acquisition relate and what percentage of the shares, interests and voting rights in the undertaking/institution is intended to be acquired?

3. During the past ten years, have you been a board member, alternate board member, managing director or deputy managing director of an institution which is under the supervision of Finansinspektionen, i.e. also Bankinspektionen (Bank Supervisory Authority) or Försäkringsinspektionen (Insurance Supervisory Authority) or a corresponding foreign authority, on which sanctions were imposed by the Supervisory Authority or the foreign authority during the period in which you had such connection? If yes, give details of the circumstances.

4. During the past ten years, have you held a senior position or held a qualifying holding of shares or interests in a Swedish or foreign undertaking (undertakings/institutions under the supervision of an authority as well as other undertakings/institutions) which was the subject of a composition or company reorganisation or was placed into insolvent liquidation or the equivalent during the period in which you had such a connection? If yes, state the undertaking's name and give details of the circumstances.

5. During the past ten years, have you been convicted by a Swedish or foreign court of any crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, give details of the circumstances.

6. Are you the subject of any preliminary investigation or equivalent by a Swedish or foreign authority on grounds of suspicion of a crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, give details of the circumstances.

7. During the past ten years, have you been subject to any enforcement measures, e.g. levy of execution or attachment of earnings, by a Swedish or foreign authority? If yes, give details of the circumstances.

8. During the past ten years, have you been subject to arbitrary tax assessment or assessed/taxed for arrears or been subjected to a tax surcharge, late filing penalties or the equivalent by a Swedish tax authority or corresponding foreign authority? If yes, give details of the circumstances.

9. Do you, or does any close relation, i.e. spouse, cohabitee or child who is a minor for whom you are guardian, directly or indirectly own shares or interests in the undertaking/institution which is referred to in question 2? If so, what percentage of the share capital, interests and voting capital is involved?

10. Do you, or does any close relation, have any other financial relations with the undertaking/institution to which the acquisition relates?

11. Have you previously been the subject of a suitability assessment by Finansinspektionen or equivalent foreign authority? If yes, give details of the circumstances.

12. In addition to that which is stated above, do you wish to state any facts or other circumstances which might be of relevance to Finansinspektionen in conjunction with the assessment of this matter?

The undersigned hereby affirms that the above information is correct.

Place and date:

Name:

Name in print:

1. State the applicant undertaking's name, organisation number and address. A registration certificate (not more than two months old) regarding the undertaking as well as the undertaking's most recently audited annual report should be appended.

2. To which undertaking/institution does the acquisition relate and what percentage of the shares, interests and voting capital is intended to be acquired?

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If both the seller and buyer belong to the same group, Finansinspektionen should be contacted as to which of the information below need be provided.

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3. Does the applicant undertaking or another undertaking in the same group or group of undertakings as the applicant undertaking own, directly or indirectly, shares or interests in the undertaking/institution referred to in question 2? (Where appropriate, an organisational diagram should be submitted).

4. State the persons or undertakings, as well as their personal identification number or organisation number, which own a qualifying holding in the applicant undertaking.

5. State other undertakings within the same group or group of undertakings as the applicant undertaking which are under the supervision of Finansinspektionen or a corresponding foreign authority or which conduct financial operations that do not require a licence.

6. During the past ten years, has the applicant undertaking held a qualifying holding of shares or interests in a Swedish or foreign undertaking which has been the subject of a composition or company reorganisation, been placed into insolvent liquidation or equivalent? If yes, state the undertaking's name and give details of the circumstances.

7. During the past ten years, has the applicant undertaking been subject to arbitrary tax assessment or assessed/taxed for arrears or been subjected to a tax surcharge, late filing penalties or the equivalent by a Swedish tax authority or corresponding foreign authority? If yes, give details of the circumstances.

8. Has the applicant undertaking previously been the subject of a suitability assessment by Finansinspektionen or corresponding foreign authority? If yes, give details of the circumstances.

9. Do you, i.e. the undersigned, in addition to the above wish to state any facts or other circumstances which might be of relevance to Finansinspektionen in conjunction with the assessment of this matter?

The undersigned authorised signatory(ies) affirms that the above information is correct.

Undertaking's name:

Place and date:

Name and position

Name and position

1. Full name, personal ID number and address.

2. Please attach a curriculum vitae containing information regarding higher education (post high school) and other education of relevance for the position, as well as a description of previous employment, including details of positions held during the last past years.

3. During the past ten years, have you been a board member, alternate board member, managing director or deputy managing director of an institution under the supervision of Finansinspektionen, i.e. also Bankinspektionen (Bank Supervisory Authority) or Försäkringsinspektionen (Insurance Supervisory Authority) or a corresponding foreign authority, on which sanctions were imposed by the Supervisory Authority or the foreign authority during the period in which you had such connection? If yes, give details of the circumstances.

4. During the past ten years, have you held a senior position or held a qualifying holding of shares or interests in a Swedish or foreign undertaking (undertakings/institutions under the supervision of an authority as well as other undertakings/institutions) which was the subject of a composition or company reorganisation or was placed into insolvent liquidation or the equivalent during the period in which you had such a connection? If yes, state the undertaking's name and give details of the circumstances.

5. During the past ten years, have you been convicted by a Swedish or foreign court of any crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, give details of the circumstances.

6. Are you the subject of any preliminary investigation or equivalent by a Swedish or foreign authority on grounds of suspicion of a crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, give details of the circumstances.

7. During the past ten years, have you been subject to any enforcement measures, e.g. levy of execution or attachment of earnings, by a Swedish or foreign authority? If yes, give details of the circumstances.

8. During the past ten years, have you been subject to arbitrary tax assessment or assessed/taxed for arrears or been subjected to a tax surcharge, late filing penalties or the equivalent by a Swedish tax authority or corresponding foreign authority? If yes, give details of the circumstances.

9. Do you, or does any close relation, i.e. spouse, cohabitee or child who is a minor for whom you are guardian, directly or indirectly own shares or interests in the undertaking/institution to which the notification relates? If so, what percentage of the share capital, interests, or voting capital is involved?

10. Do you, or does any close relation, have any other financial relations with the undertaking/institution to which the notification relates?

11. Do you, at present, possess a qualifying holding of shares or interests in a Swedish or foreign undertaking (undertakings/institutions under the supervision of an authority as well as other undertakings/institutions) or are you a board member, alternate board member, managing director or deputy managing director of a Swedish or foreign undertaking? If yes, describe the undertaking's operations and the manner in which possible conflicts of interest will be avoided between your involvement in the undertaking and the senior position currently notified by you.

12. Have you previously been the subject of a suitability assessment by Finansinspektionen or equivalent foreign authority? If yes, give details of the circumstances.

13. In addition to that which is stated above, do you wish to state any facts or other circumstances which might be of relevance to Finansinspektionen in conjunction with the assessment of this matter?

The undersigned hereby affirms that the above information is correct.

Place and date:

Name:

Name in print: