

# Finansinspektionen's Regulatory Code

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## Finansinspektionen's Regulations governing investment funds;

**FFFS 2008:11**

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decided on 30 May 2008.

Finansinspektionen hereby<sup>1</sup> prescribes as follows pursuant to the Investment Funds Ordinance (2004:75).

### Chapter 1. The regulations' contents and scope

**Section 1** These regulations shall be applied by companies conducting fund activities. *Companies conducting fund activities* refer to fund management companies, and, with regard to fund activities, investment firms and credit institutions authorised pursuant to Chapter 1, section 5 of the Investment Funds Act (2004:46).

Where the provisions in these regulations shall only be applied by fund management companies, it is specifically stated.

**Section 2** These regulations contain provisions relating to:

- authorisation to conduct activities (Part I),
- sound business practices (Part II),
- investment funds (Part III),
- information regarding investment funds (Part IV), and
- reporting to Finansinspektionen (Part V).

### Definitions

**Section 3** Unless otherwise stated, the terms and expressions used in these regulations have the same meaning and scope as in the Investment Funds Act (2004:46).

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<sup>1</sup> The Commissionen's Directive 2007/16/EC of 19 March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions.

## **PART I**

### **Authorisation to conduct activities**

#### **Chapter 2. Application for authorisation to conduct activities**

##### **Scope**

**Section 1** The provisions in this Chapter apply for a company pursuant to Chapter 1, section 1 when it applies for authorisation to:

1. conduct fund activities,
2. engage in discretionary portfolio management regarding financial instruments pursuant to Chapter 1, section 4 of the Investment Funds Act (2004:46), or
3. perform certain services or functions for a fund management company, foreign management company or foreign collective investment undertaking pursuant to Chapter 1, section 4 of the Investment Funds Act.

The provisions shall also apply, where appropriate, to the procedure in conjunction with a fund management company's application for authorisation to establish a branch in a country outside the EEA.

##### **Formulation of the application**

**Section 2** In its application, a company shall state which authorisation or authorisations it would like. The application shall be signed by an authorised representative of the company.

**Section 3** A company shall append the following documents to its application:

1. board minutes showing that the board of directors has approved the application;
2. a registration certificate for the company from the Swedish Companies Registration Office, or the equivalent, which is not more than two months old and which attests that the company has an initial capital corresponding to not less than EUR 125,000;
3. a copy of the articles of association setting forth what activities are going to be conducted;
4. minutes from the general meeting at which the articles of association were adopted;
5. a business plan, prepared pursuant to sections 4–27;
6. a copy of the fund rules with respect to the investment fund or funds to be managed;
7. a simplified prospectus prepared in accordance with the provisions of Chapter 17;

8. a draft of the full prospectus prepared pursuant to the provisions in Chapter 18;  
and
9. board minutes or written information stating the board meeting at which the fund rules were adopted.

### **Content of the business plan**

#### *The company's activities*

**Section 4** The business plan shall contain a detailed description of the company's activities, with an indication of whether the company:

1. conducts fund activities,
2. engages in discretionary portfolio management regarding financial instruments,  
or
3. performs certain services or functions for a fund management company, foreign management company or foreign collective investment undertaking.

The content of the business plan shall be adapted to the type of activity conducted by the company. The business plan shall also be adapted to any activity conducted from a branch office.

An investment firm or a credit institution which intends to conduct fund activities pursuant to Chapter 1, section 5 of the Investment Funds Act (2004:46) shall, in the business plan, describe the fund activities and the manner in which such activities are organised in relation to other activities.

#### *Ownership list*

**Section 5** An ownership list stating the company's ownership structure shall be included in the business plan. The list shall contain information on the company's direct and indirect owners.

A company shall also append to its application the information for ownership assessment as set forth in Chapter 5.

#### *Group description, etc.*

**Section 6** Where a company which is included in a group or financial group pursuant to Chapter 9 of the Capital Adequacy and Large Exposures Act (2006:1371), the business plan shall include a schematic overview of the group's or financial group's structure, information regarding the individual companies that form part of this group and their share of ownership in the company applying for authorisation. Information shall be provided regarding all links included in the ownership chain.

It shall also be stated in the business plan whether the company is included in a financial conglomerate pursuant to the Special Supervision of Financial Conglomerates Act (2006:531).

Information shall also be provided where the company has close relations with any legal or natural person in the manner stated in Chapter 1, section 2 of the Investment Funds Act (2004:46).

*Management list*

**Section 7** In its business plan, a company shall state which members and any alternates are included in the board of directors and who is the chairman of the board of directors. The company shall also provide information regarding who is the managing director, the deputy managing director as well as any other members of senior management. *Members of senior management* refer to persons with specific functional responsibility for compliance and risk management as well as other persons with specific functional responsibility, for example, a designated portfolio manager.

Information shall be provided regarding the education as well as earlier and current experience of financial activities possessed by every person included in the management list. Information shall also be included regarding any engagements and ownership interests in other companies within the financial sector or in stock market companies.

With respect to any board members, alternate board members, managing director or deputy managing director, the company shall append the information required for management assessment as stated in Chapter 5.

*Economic situation*

**Section 8** In its business plan, a fund management company shall provide a forecast for its economic situation over the next three financial years. The forecast shall provide an account of which assumptions it is based on. The forecast shall cover:

1. a balance sheet and profit and loss account,
2. an analysis of the capital requirements pursuant to Chapter 2, sections 8–11 of the Investment Funds Act (2004:46), and
3. a description of how the result of the balance sheet and profit and loss account will affect the initial capital that the company shall have in accordance with the Investment Funds Act.

In the business plan, the fund management company shall provide information on calculated fixed costs pursuant to Chapter 4, section 4 for the first financial year. Where the activities have been conducted over a period of more than one year, the business plan shall be regularly updated with information regarding fixed costs for the preceding year.

A sensitivity analysis shall also be provided showing how changed assumptions, for example for assets under management and performance in managed funds, will affect stated forecasts and capital requirements in accordance with the Investment Funds Act.

A fund management company shall account for how it intends to finance its activities.

A fund management company, which pursuant to Chapter 1, section 4 of the Investment Funds Act, has authorisation for discretionary portfolio management shall account for which capital exists in order to cover the fund management company's risks pursuant to Chapter 2, sections 10 and 10a of the Investment Funds Act.

### *Organisation*

**Section 9** The business plan shall contain a schematic overview of how the activities will be organised. The overview shall show who is responsible for the respective area or function as well as how many persons shall be active within these areas or functions. It shall also show where in the organisation there are functions for compliance and risk management.

In the business plan, a company shall also describe the different areas or functions and provide a general account of the measures and functions carried out within each particular area.

It shall contain information regarding the number of employees in the company as well as whether there are employees at the company who are also employed at another company.

### *Delegation agreements (outsourcing)*

**Section 10** In the event the company has delegated or intends to delegate to another party to perform parts of the fund activities, the company in its business plan shall state to whom the activities are delegated and the scope of the delegation.

In its business plan, the company shall also account for:

1. the service provider's expertise and skills with reference to the delegation agreement,
2. the service provider's other significant activities, and
3. such circumstances as may give rise to a conflict between the interests of the service provider and the interests of the principal or unit holders.

The company shall also account for how it will ensure that the requirements set out in Chapter 11 are met.

The company shall also append to the business plan the delegation agreements that it has entered into or intends to enter into.

### *Information system and security issues*

**Section 11** The business plan shall contain information regarding the manner in which IT activities shall be organised. A general description shall be provided regarding the existing systems as well as their functions and areas of use.

Information shall also be provided regarding the measures to be taken with respect to information security and physical security. In this context, a description shall be provided of the confidentiality protection functions which are used in order to prevent unauthorised persons from obtaining access to classified information. Information shall also be provided where the company shares office space and technical equipment with others and, when applicable, how the company consequently intends to manage confidentiality issues.

#### *Conflicts of interest*

**Section 12** The business plan shall contain a description of the conflicts of interest that the company has identified that may arise in the activities and a reference to the instructions for managing the company's conflicts of interest pursuant to Chapter 12.

#### *Administrative processes*

**Section 13** The business plan shall contain a general description of the administrative processes in the activities. The description shall include an account of the manner in which a transaction is handled throughout the processing chain and the manner in which the company ensures that no one processes a transaction alone throughout this processing chain (the duality principle).

#### *Compliance*

**Section 14** The business plan shall state how the company intends to ensure that it complies with the regulations that apply to the activities. The business plan shall also contain an account of how the compliance function shall be designed and how its work will be conducted.

#### *Risk management*

**Section 15** The business plan shall state how the company intends to identify, measure, manage, internally report and maintain control over the risks associated with its activities. The business plan shall also state which routines the company has for risk management pursuant to Chapter 6, section 11, as well as a reference to the company's instructions in accordance with the same provision.

The business plan shall contain a description of how the risk management function is structured pursuant to Chapter 6, section 12 and how the function's work shall be conducted.

#### *Internal audit*

**Section 16** The business plan shall contain a description of how the internal audit function shall be designed and how its work shall be carried out.

#### *Auditor*

**Section 17** The business plan shall state who has been appointed auditor by the general meeting.

*Events of material significance*

**Section 18** The business plan shall contain a reference to the instructions for managing and reporting events of material significance which the company shall have pursuant to Chapter 7, section 4.

*Management of ethical issues*

**Section 19** The business plan shall contain a reference to the instructions for managing ethical issues which the company shall have pursuant to Chapter 8, section 1.

*Complaints management*

**Section 20** The business plan shall state which routines the company intends to apply in order to manage client complaints pursuant to Chapter 9, sections 1 and 2 .

*Personal transactions*

**Section 21** The business plan shall state which routines the company intends to apply pursuant to Chapter 10, section 2 for the personal transactions of relevant persons.

*Measures against money laundering and financing of particularly serious crime*

**Section 22** The business plan shall contain a description of the internal rules regarding measures against money laundering and financing of particularly serious crime that the company intends to apply. Information about who is responsible for the central function for these issues shall be specified.

*Discretionary portfolio management regarding financial instruments*

**Section 23** A fund management company, which in its activities, executes or intends to execute discretionary portfolio management regarding financial instruments, shall provide a detailed description of this activity in its business plan. The description shall state:

1. the different categories of financial instrument to be covered by the management;
2. how the company intends to divide its clients into retail and professional categories and how this division is expected to affect the treatment of clients in the different categories,
3. how the company intends to inform its clients pursuant to Chapter 13, sections 2 and 3 of Finansinspektionen's Regulations (FFFS 2007:16) governing investment services and activities,
4. whether the company intends to treat certain professional clients as equivalent counterparties,
5. how the company intends to provide best execution pursuant to Chapter 19 of Finansinspektionen's Regulations governing investment services and activities, and

6. a reference to the instructions for allocation of orders pursuant to Chapter 20, section 6 of Finansinspektionen's Regulations governing investment services and activities that the company intends to apply.

*Safekeeping of fund units*

**Section 24** A fund management company which, in its activities, accepts fund units for safekeeping shall, in the business plan, describe the technical systems used as well as the procedures applied with respect to the registration of the owners' holdings.

*Acceptance of assets subject to a reporting obligation*

**Section 25** A fund management company which, in its activities, accepts assets subject to a reporting obligation shall, in the business plan, provide a general description of the manner in which it ensures that assets are kept separate from the company's own assets.

*Provision of investment advice*

**Section 26** A fund management company which, in its activities, provides investment advice which relates to such financial instruments as referred to in Chapter 5 of the Investment Funds Act (2004:46) shall, in the business plan, provide a general description of the company's instructions with respect to such activities.

*Internal rules and instructions*

**Section 27** A company shall append to the business plan the internal rules pursuant to section 22 and the instructions that shall be in place for the activities pursuant to the provisions of Chapters 6–10 and Chapters 12–13. These internal regulations and instructions shall be set out in writing.

**Application to establish a branch office**

**Section 28** When a fund management company applies for authorisation from Finansinspektionen pursuant to Chapter 2, section 16 of the Investment Funds Act (2004:46), *Appendices 4* and *5* shall be used.

**Chapter 3. Procedures subject to a notice obligation**

**Delegation agreements**

**Section 1** A notification pursuant to Chapter 4, section 7 of the Investment Funds Act (2004:46) by a company conducting fund activities shall contain the information stated in Chapter 2, section 10, first–third paragraphs. A copy of the agreement regulating the engagement shall be appended to the application.



The company shall submit the notification to Finansinspektionen not later than one month prior to the date on which the agreement will enter into force.

### **Branch activities and cross-border activities within the EEA**

**Section 2** A fund management company which notifies of its branch activities or cross-border activities within the EEA pursuant to Chapter 2, sections 12 and 15 of the Investment Funds Act (2004:46), shall use *Appendices 4* and *5*.

## **Chapter 4. Capital requirements for fund management companies**

### **Scope**

**Section 1** A fund management company shall apply the provisions in this Chapter when calculating the items referred to in Chapter 2, sections 4, 8, 9 and 11 of the Investment Funds Act (2004:46).

### **Initial capital**

**Section 2** A fund management company's *initial capital*, pursuant to Chapter 2, section 4 of the Investment Funds Act (2004:46) refers to the fund management company's share capital.

### **Own funds**

**Section 3** A fund management company's own funds shall be calculated in accordance with the items included in the capital base of an investment firm pursuant to Chapter 3 of the Capital Adequacy and Large Exposures Act (2006:1371) and Chapters 6–10 of Finansinspektionen's Regulations and General Guidelines (FFFS 2007:1) governing capital adequacy and large exposures.

### **Fixed overhead expenses**

**Section 4** A fund management company's fixed overhead expenses include personnel expenses such as salaries (including employees' commissions and bonuses) social security contributions and pension commitments, expenses associated with delegated activities, real estate and premises, and associated costs, other contractual expenses for e.g. computers and other equipment and depreciation.

## PART II

### Sound business practices

#### Chapter 5. Ownership and management assessment

##### Scope

**Section 1** This Chapter contains provisions governing the information a fund management company and its owners shall submit to Finansinspektionen in conjunction with an ownership or a management assessment pursuant to the Investment Funds Act (2004:46).

##### Written information to Finansinspektionen

**Section 2** A fund management company and its owners shall submit in writing the information set forth in *Appendices 1-3*.

##### Ownership assessment

###### *Application for authorisation to acquire shares*

**Section 3** The information set forth in *Appendix 1a* or *1b* shall be appended to an application for authorisation to acquire a qualifying holding of shares in a fund management company.

If the acquirer is a legal person, *Appendix 1b* shall be used for information regarding the legal person and *Appendix 1c* for information regarding board members, alternate board members, managing directors and deputy managing directors in the acquiring legal person.

The information set forth in *Appendix 1c* shall be appended to a notification for a change in the management of an undertaking that has a qualifying holding in a fund management company.

###### *Application for authorisation to conduct activities*

**Section 4** The information set forth in *Appendix 1a* shall be appended to an application for authorisation to conduct activities for a natural person who owns a qualifying holding of shares in the fund management company. If the owner is a legal person, the information set forth in *Appendix 1b* shall be appended.

With respect to a board member, alternate board member, managing director or deputy managing director of an undertaking which owns a qualifying holding, the information set forth in *Appendix 1c* shall be appended to an application for authorisation to conduct activities.

*Supervision in another EEA country*

**Section 5** A legal person under the supervision of a financial supervisory authority in another EEA country is not required to append the information set forth in *Appendices 1–3* to its application for ownership assessment. However, a description or outline of the ownership structure in the group pre- and post-acquisition, with ownership shares stated in per cent, shall always be appended.

**Management assessment**

**Section 6** A fund management company and a controlling company shall inform Finansinspektionen when appointing or intending to appoint the following persons in the company:

- a board member,
- an alternate board member,
- a managing director or a deputy managing director.

The fund management company shall also inform Finansinspektionen when the number of board members decreases.

The information set forth in *Appendices 2a* and *2b* respectively shall be appended when a new board member, alternate board member, managing director or deputy managing director is appointed in a fund management company.

**Simplified ownership and management assessment**

**Section 7** Persons who have been the subject of an ownership or management assessment in a corresponding role at some point during the past 365 days may, instead of that set out in sections 3–6, submit the information set forth in *Appendix 3*.

**Chapter 6. Organisational requirements****General organisational requirements**

**Section 1** A company conducting fund activities shall be organised and have procedures as follows:

1. There shall be current and documented decision-making procedures that clearly specify reporting lines, and an organisational structure which clearly allocates functions and areas of responsibility,
2. The relevant persons referred to in Chapter 10, section 1, subsection 2 shall be aware of the procedures which shall be followed for the proper discharge of their obligations.
3. There shall be current and appropriate internal control mechanisms which ensure compliance with decisions and procedures at all levels of the company.
4. The company shall employ personnel with the expertise and knowledge required for the discharge of the tasks allocated to them.

5. There shall be internal reporting and internal communication of information that is current and effective.

6. The company shall store relevant information related to the fund activities and the internal organisation for at least five years.

7. Where a relevant person referred to in Chapter 10, section 1, subsection 2 works within multiple functions, this should not prevent the person from discharging his or her tasks soundly, honestly and professionally.

8. An allocation of responsibility and tasks defined from a control standpoint shall be in place. Such an allocation of responsibility and tasks is intended to ensure that no one processes a transaction alone throughout the processing chain (the duality principle).

When applying the first paragraph, the company shall take into account the nature, scale and complexity of the activities.

**Section 2** A company conducting fund activities shall maintain current systems and procedures for safeguarding the security, integrity and confidentiality of its information. These systems and procedures shall take into account the nature of the information in question.

**Section 3** A company conducting fund activities shall have current and appropriate instructions in order to conduct activities without interruption.

The instructions shall establish that the company, in the event of interruption to its systems or procedures, shall ensure that its most important information and functions are preserved and that its activities are maintained.

Where this is not possible, the company shall ensure that the information and functions are restored without delay so that activities can be resumed within a reasonable amount of time.

**Section 4** A company conducting fund activities shall maintain current accounting instructions and procedures that enable it, at the request of Finansinspektionen, to submit financial reports in a timely manner which reflect a true and fair picture of the company's financial position and comply with all applicable accounting standards and regulations.

**Section 5** A company conducting fund activities shall monitor and, on a regular basis, evaluate its systems, internal control mechanisms and procedures implemented pursuant to sections 1–4 to ensure that they are effective. The company shall also take appropriate measures to address any deficiencies.

### **Responsibility of senior management**

**Section 6** *Senior management* refers to the board of directors and the managing director.

When allocating functions, the senior management is responsible for ensuring that the company conducting fund activities complies with its obligations set out in the Investment Funds Act (2004:46) and other statutes regulating the company's activities.

In particular, the senior management shall assess the company's instructions and procedures pursuant to the Investment Funds Act and other statutes regulating the company's activities. Senior management shall also take appropriate measures to address any deficiencies in the instructions and procedures.

**Section 7** A company conducting fund activities shall ensure that the senior management regularly, and at least annually, receives written reports on the areas covered by the provisions in this Chapter regarding compliance, risk management and internal audits.

The reports shall contain, among other things, information concerning the appropriate measures taken in the event of any deficiencies.

## Compliance

**Section 8** A company conducting fund activities shall maintain current and appropriate instructions and procedures to detect any risk of failure by the company to fulfil its obligations pursuant to the Investment Funds Act (2004:46) and other statutes regulating the company's activities.

The company shall implement appropriate measures and procedures designed to minimise such risks and enable Finansinspektionen to effectively carry out its supervision.

When formulating instructions and procedures, the company shall take into account the nature, scale and complexity of its activities.

**Section 9** A company conducting fund activities shall maintain a permanent and effective compliance function.

The function shall operate independently and be responsible for:

1. controlling and regularly assessing the appropriateness and effectiveness of measures and procedures implemented pursuant to section 8, second paragraph and evaluating the measures taken to address deficiencies in the company's compliance, and
2. provide advice and support to relevant persons pursuant to Chapter 10, section 1, subsection 2 so that the fund activities are conducted pursuant to the Investment Funds Act (2004:46) and other statutes regulating the company's activities.

**Section 10** In order for the compliance function to discharge its tasks properly and independently, a company conducting fund activities is responsible for ensuring that:

1. the function has the necessary authority, resources, expertise and access to all relevant information,
2. a person is appointed who is responsible for the function and for all reporting as regards to compliance pursuant to section 7,
3. the relevant persons included in the function do not participate in the performance of services in the activity they are controlling, and
4. the method for determining remuneration of the employees involved in the function does not compromise their objectivity, or most likely will not do so.

However, a company is not obligated to fulfil the requirements in the first paragraph, points 3 or 4 if, when taking into consideration the nature, scale and complexity of the activities, the company can demonstrate that these requirements are not proportionate and that its compliance function remains effective.

### **Risk management**

**Section 11** The senior management is responsible for ensuring that the management and monitoring of risks in the activities is satisfactory.

A company conducting fund activities shall:

1. maintain current and appropriate instructions and procedures for risk management for the purpose of identifying the risks relating to its activities, processes and systems and, where appropriate, establish the level of risk acceptable to the company, and
2. adopt effective procedures, processes and mechanisms to manage the risks relating to its activities, processes and systems, in light of the level of acceptable risk referred to in point 1.

A company conducting fund activities shall also monitor:

1. that instructions and procedures pursuant to the second paragraph, point 1 are appropriate and effective,
2. to what level the company, its employees and service providers comply with the procedures, processes and mechanisms adopted pursuant to the second paragraph, point 2, and
3. that measures which the company has taken to address deficiencies in instructions, procedures, processes and mechanisms, including failure by employees and service providers to comply with these, are adequate and effective.

**Section 12** A company conducting fund activities shall maintain a risk management function that operates independently. For activities other than fund management, the company does not need to fulfil the independence requirement, if the company can demonstrate that this requirement is not proportionate when taking into consideration the nature, scale and complexity of the business and that the company's risk management function in this portion of the business is still functioning efficiently.

The risk management function shall:

1. implement the instructions and procedures as well as carry out the controls referred to in section 11, and
2. provide reports and advice to senior management pursuant to section 7.

### **Internal audit function**

**Section 13** A company shall maintain an internal audit function. The function shall be separate and independent from the other functions and activities of the company.

The internal audit function shall:

1. maintain a current audit plan to examine and assess whether the company's systems, internal control mechanisms and procedures are adequate and effective,
2. issue recommendations based on the work carried out pursuant to point 1,
3. monitor how these recommendations are complied with, and
4. report in relation to internal audit matters pursuant to section 7.

## **Chapter 7. Reporting of events of material significance**

### **Reporting to Finansinspektionen**

**Section 1** When such events occur as set forth in sections 2–3, they shall be reported to Finansinspektionen without delay. The report shall contain the information set forth in *Appendix 6*.

**Section 2** A company conducting fund activities shall report such events that can jeopardise the company's stability, the protection of its clients' assets or that which will lead to the firm not being able to fulfil its commitments to its clients.

A company shall furthermore report:

1. events that can lead to significant financial damage for a larger number of clients, and
2. events which can lead to a significant reputational loss for the company.

**Section 3** If an accountant takes such actions as specified in Chapter 9, sections 43 and 44 of the Companies Act (2005:551), Finansinspektionen shall be informed promptly.

### **Instructions for management and reporting**

**Section 4** The board of directors shall draw up written instructions in order to process and report events of material significance.

### **Notification to police authority or prosecutor**

**Section 5** A company conducting fund activities shall file a report with a police authority or prosecutor upon discovery of a suspected crime.

## **Chapter 8. Management of ethical issues**

### **Generally**

**Section 1** A company conducting fund activities shall adopt instructions regarding the management of ethical issues in the activities. The instructions shall account for the manner in which the employees shall act in situations where, from an ethical perspective, appropriate behaviour may be unclear or where the legal rules in the area provide insufficient guidance.

The instructions regarding the management of ethical issues shall be adopted by the board of directors and documented in an appropriate manner. The instructions shall be reviewed regularly and revised as required.

#### **Scope of the instructions**

**Section 2** The instructions regarding the management of ethical issues shall cover all of the company's activities. The instructions shall be formulated based on the assumption that the activities shall be characterised by sound business practice and consistent behaviour, as well as a fair handling of the interests of the client.

#### **Content of the instructions**

**Section 3** The instructions shall address problem areas in which ethical issues may particularly arise. Furthermore, the instructions shall contain conduct rules aimed at ensuring that the activities are conducted at all times within the scope of the applicable rules and in an ethically acceptable manner.

**Section 4** The instructions regarding the management of ethical issues shall set forth the following:

1. practical directions as to the manner in which the employees shall act in certain situations and to whom they shall turn in doubtful situations, and
2. the manner in which gifts and other benefits, engagements outside the employment, etc. shall be handled.

#### **Monitoring, control and reporting**

**Section 5** Monitoring of compliance with the instructions regarding the management of ethical issues shall take place within the scope of the internal review which is carried out pursuant to the board of directors' directions.

Internal reporting routines shall be established within the company that ensure that the board of directors receives without delay information regarding issues involving matters of principle or other important issues which concern the activities and the behaviour of employees.

#### **Internal information and training**

**Section 6** A company shall ensure that employees receive regular information and training regarding ethical issues.

### **Chapter 9. Complaints management**

**Section 1** A company conducting fund activities shall maintain effective and transparent procedures for the prompt and reasonable handling of complaints from clients.

**Section 2** The company shall keep a record of each complaint and the measures taken for its resolution.



## Chapter 10. Personal transactions

### Definitions

**Section 1** In this Chapter, terms and expressions shall have the following meaning:

*1. Personal transactions:*

Trade with a financial instrument which is conducted by a relevant person or on behalf of a relevant person if at least one of the following criteria is met:

a) The relevant person is acting outside of the scope of the activities he or she carries out in his or her capacity as a relevant person.

b) The transaction is carried out on behalf of any of the following persons:

– the relevant person himself or herself,

– any other person with whom the relevant person has a family relationship, or with whom the relevant person has a close relationship,

– a person whose relationship with the relevant person is such that he or she has direct or indirect material interest in the outcome of the transaction, other than a fee or commission for the execution of the transaction.

*2. Relevant person:* with regards to a company conducting fund activities:

a) a member of the senior management, a partner or a manager of the company,

b) an employee of the company and any other natural person who either performs services for the company, is under the control of the company or who is involved on behalf of the company in conducting fund activities, and

c) a natural person who, under a delegation agreement, is directly involved in conducting parts of the fund activities on behalf of the company.

*3. Person with whom a relevant person has a family relationship:*

a) the spouse of the relevant person or a person considered by national law to be equivalent to a spouse,

b) a dependent child or stepchild of the relevant person, and

c) all other relatives of the relevant person who have shared the same household as that person for at least one year on the date of the concerned transaction.

### Applicable provisions

**Section 2** Where a relevant person is involved in activities that can give rise to a conflict of interest, or who has access to inside information within the meaning of section 1, line 1 of the Financial Instruments Trading (Market Abuse Penalties) Act (2005:377), or to other confidential information relating to clients in companies conducting fund activities, the company shall maintain current and adequate procedures to prevent:

1. a relevant person from entering into a personal transaction which meets at least one of the following criteria:

a) the transaction is entered into in violation of the Financial Instruments Trading (Market Abuse Penalties) Act (2005:377),

b) the transaction entails the misuse or improper disclosure of confidential information, or

c) the transaction conflicts, or is likely to conflict, with the company's obligations under the Investment Funds Act (2004:46),

2. that a relevant person, other than within the scope of his or her employment or contract for services, advises or influences another person to enter into a transaction in financial instruments which, if a personal transaction of the relevant person, is covered by subsection 1 of this provision,

3. that a relevant person, regardless of that laid down in the Financial Instruments Trading (Market Abuse Penalties) Act, other than within the scope of their employment or contract for services, discloses information or positions to a third person if the relevant person is aware, or reasonably should be aware, that the other person, as a result of the disclosure, will or probably would:

a) enter into a transaction in financial instruments which, if a personal transaction of the relevant person, would be covered by subsection 1 of this provision, or

b) advise or influence another person to enter into such a transaction.

**Section 3** The procedures a company conducting fund activities shall maintain pursuant to section 2 shall ensure, among other things, that:

1. all relevant persons covered by section 2 are aware of the restrictions that exist regarding personal transactions and the measures established by the company regulating personal transactions and disclosure pursuant to section 2,

2. the company is informed promptly of all personal transactions entered into by a relevant person, either by notification or other procedures enabling the company to identify such transactions, and

3. a record is kept of the personal transactions notified to or identified by the company.

The records, pursuant to the first paragraph, point 3, shall include all authorisations or prohibitions reported for such transactions.

When delegating, the company shall ensure that the service provider records relevant persons' personal transactions and, on request, immediately turns over such information to the company.

**Section 4** The provisions in sections 2 and 3 shall not be applied to:

1. personal transactions entered into as part of a portfolio management service, where there is no prior exchange of information in conjunction with the transaction between the portfolio manager and the relevant person, or any other person on whose behalf the transaction is entered into, or

2. personal transactions in units of investment funds or undertakings for collective investments which meet the conditions under Directive 85/611/EEC or that are

subject to supervision pursuant to legislation in a Member State that requires an equivalent spreading of risks among assets, provided that the relevant person or any other person on behalf of whom the transactions are entered into does not participate in the management of the investment fund or the undertakings for collective investments.

## **Chapter 11. Delegation agreements**

### **Introductory provisions**

**Section 1** This Chapter contains more detailed provisions on delegation agreements in addition to those found in Chapter 4, sections 4–7 of the Investment Funds Act (2004:46).

### **Conditions for delegation agreements**

**Section 2** A company conducting fund activities shall exercise the requisite skills, care and diligence necessary when entering into, managing and terminating delegation agreements relating to fund activities.

The company shall take necessary steps to ensure that:

1. the service provider carries out the delegated activities efficiently and for this purpose, the company shall establish processes for assessing the performance of the service provider,
2. the service provider appropriately monitors the delegated functions and manages associated risks in an appropriate manner,
3. if the service provider does not carry out the task efficiently and in compliance with applicable laws and other provisions, appropriate measures are taken,
4. the company shall have the expertise required for efficiently monitoring the delegated activities and managing the risks associated with the delegating and monitoring these functions and managing these risks,
5. the service provider notifies the company about all events that may have a material impact on its ability to efficiently carry out the delegated functions in accordance with applicable laws and other provisions,
6. the delegation agreement may be terminated without affecting the continuity and quality of the activities,
7. the service provider cooperates with Finansinspektionen in connection with the delegated activities,
8. the company, its auditors and Finansinspektionen have actual access to information regarding the delegated activities and to the service provider's premises, and that Finansinspektionen can exercise supervision,
9. the service provider protects all confidential information relating to the company and its clients, and
10. the company and the service provider maintain a contingency plan for re-establishing activities after unforeseen events, and for periodic testing of back-up

procedures, where necessary, with regard to the parts of the fund activities that were delegated.

**Section 3** The rights and obligations of the company conducting fund activities and the service provider respectively shall be clearly regulated in a written agreement.

**Section 4** Where the company conducting fund activities and the service provider are members of the same group, for the purposes of sections 2 and 3, the company may take into account the extent to which the company controls, or has the possibility to influence, the service provider.

## **Chapter 12. Conflicts of interest**

**Section 1** A company conducting fund activities shall have instructions specifying how the company handles conflicts of interest. The instructions shall be appropriate, taking into account the size and organisation of the company and the nature, scale and complexity of the business.

Where the company is a member of a group, the instructions shall also take into account the circumstances that the company is aware of or should be aware of and which may give rise to a conflict of interest as a result of the structure or business activities of other undertakings in the group.

**Section 2** The instructions for conflicts of interest pursuant to section 1 shall:

1. identify the circumstances which constitute or may give rise to a conflict of interest entailing a material risk of damage to the interests of one or more of the clients with regard to services and activities carried out by or on behalf of the company conducting fund activities, and
2. specify the procedures that shall be applied and the measures to be adopted in order to handle such conflicts.

## **Chapter 13. Specifically on portfolio management regarding financial instruments**

**Section 1** A fund management company which carries out discretionary portfolio management relating to financial instruments, in such management and when providing services pursuant to Chapter 7, section 1, first paragraph of the Investment Funds Act (2004:46), shall apply the provisions contained in Chapters 6–15, Chapter 17, Chapter 19, Chapter 20, sections 1–10 and Chapter 21, sections 1 and 2 of Finansinspektionen's Regulations (FFFS 2007:16) governing investment services and activities.

## PART III

### Investment funds

#### Chapter 14. The content of the fund rules

##### Generally

**Section 1** A company shall draw up fund rules for each investment fund. The fund rules shall have the content and comply with the format set forth in sections 2–16.

##### The investment fund's legal status

**Section 2** The fund rules shall state the investment fund's name. Furthermore, the fund rules shall state whether the investment fund is a UCITS or a special fund pursuant to the Investment Funds Act (2004:46).

The legal nature of the fund shall be stated in the fund rules. It shall be stated that the net fund assets are owned by the unit holders jointly and that each fund unit entitles the holder to an equal share in the assets included in the fund. It shall also be stated that the company which manages the investment fund represents the unit holders in all issues which concern the investment fund and that the investment fund cannot acquire rights or assume obligations.

In respect of special funds, information shall be provided as to whether the fund is intended for the public or a specifically limited group of persons. Where the fund is intended for a specifically limited group of persons, that group shall be identified.

##### Fund manager

**Section 3** The fund rules shall state which fund management company, investment firm or credit institution shall manage the investment fund.

##### Depository and its duties

**Section 4** The fund rules shall state which depository is retained on behalf of the investment fund. The duties of the depository shall be described in general.

##### The nature of the investment fund

**Section 5** The fund rules shall contain a general and summarised description of the nature of the investment fund with respect to the investment of the fund's holdings, its aims and any strategies.

##### The investment fund's investment objectives

**Section 6** The fund rules shall contain a detailed description of the investment fund's investment objectives. The description shall enable an investor to assess the risks associated with the investment fund.

The investment fund's investment objectives shall be described based on the following selection criteria:

1. the type of assets in which the investment fund may invest by way of reference to transferable securities, money market instruments, derivative instruments, units in collective investment undertakings, as well as deposits at credit institutions;
2. whether the investment fund may invest only in a particular industry, geographic area, or in financial instruments issued by a particular issuer or similar;
3. other objectively determined selection criteria.

The fund rules for a special fund shall state the respects in which the special fund deviates from the rules applicable to UCITS as well as the limitations applicable to the special fund. Information shall also be provided regarding the sought risk level and the risk measurement used. The risk measurement shall be relevant to the management methods which the managing company uses.

**Section 7** The fund rules shall state which regulated markets or equivalent markets outside the EEA and other marketplaces or markets on which the investment fund's means may be invested.

### **Specific investment objectives**

**Section 8** The fund rules shall specifically state whether the investment fund may use the following assets or strategies:

1. such transferable securities and money market instruments as referred to in Chapter 5, section 5 of the Investment Funds Act (2004:46);
2. derivative instruments and, in such case, it shall be stated specifically whether derivative instruments may be used:
  - in order to increase efficiency of management, for the purpose of reducing costs and risks in the management, or for the purpose of increasing performance and creating leverage in the fund, or
  - as a part of the fund's investment objective;
3. such derivative instruments as referred to in Chapter 5, section 12, second paragraph of the Investment Funds Act (so-called OTC derivatives).

Where the investment fund does not have the possibility to use the assets or strategies set forth in the first paragraph, points 1–3, it shall be stated in the fund rules.

The fund rules shall also state whether the investment fund's investment objective means that the following assets or strategies can be used:

1. such bonds and other instruments of indebtedness as stated in Chapter 5, section 8 of the Investment Funds Act, stating the issuers or underwriters who have issued or underwritten instruments of indebtedness in which the fund intends to invest more than 35 per cent of the fund means;
2. where the fund invests a significant portion of the fund means in units of investment funds and undertakings for collective investments (so-called fund of funds);

3. such derivative instruments as referred to in Chapter 6, section 2, second paragraph of the Investment Funds Act (so-called commodities derivatives);
4. where the fund is an index fund pursuant to Chapter 5, section 7 of the Investment Funds Act, a description shall be provided of the index which the fund intends to follow and the market where it is used;
5. where the fund uses currency derivatives for the purpose of hedging their positions, this shall be stated and include the conditions for hedging;
6. where coverage when trading derivative instruments pursuant to Chapter 16, section 8, second or fourth paragraph, this shall be stated, as well as that the fund's trading in derivative instruments can lead to the fund having a negative exposure towards a single currency, single equity, single equity market, single fixed income market or single financial index;
7. where the fund uses such techniques and instruments as referred to in Chapter 16, section 10 in order to create leverage in the fund.

## **Valuation**

**Section 9** The fund rules shall state the principles on which calculation of the value of the investment fund and the units of the fund is based. Where the fund's means may be invested in such transferable securities and money market instruments as referred to in Chapter 5, section 5 of the Investment Funds Act (2004:46) or in OTC derivatives pursuant to Chapter 5, section 12, second paragraph of the same act, it shall be stated specifically how such assets are to be evaluated, with information regarding the applicable valuation principles.

Where a special fund's assets are not calculated and published at least once a month, an indicative NAV per unit shall be calculated and published. The fund rules shall state when the indicative NAV per unit will be published. The indicative NAV per unit shall be calculated and published between the dates of the calculation and publication of the official NAV per unit, though not later than one week before the last day of the notification of the sale or redemption which the fund applies in accordance with its fund rules.

## **Sales and redemption of fund units**

**Section 10** The fund rules shall state the extent to which the investment fund is open for sale and redemption of units and also when and where the sale and redemption price for the units are published.

The fund rules shall also state the principles used in order to determine the investment fund's sale and redemption prices. It shall be stated specifically that sale or redemption shall take place at a price which is unknown to the unit holder at the time of the request regarding sale or redemption.

The fund rules shall also state whether it is possible to close the investment fund for subscription for new units. Where the investment fund can be closed, the fund rules must state the objective conditions under which such a measure is possible.

**Section 11** The fund rules shall state that the investment fund may be closed for entry and exit in the event such extraordinary circumstances have occurred as a consequence of which a valuation of the fund's assets cannot be made in a manner which ensures equal treatment of the unit holders.

## **Fees and remuneration**

**Section 12** Where a fee is charged in conjunction with the sale or redemption of units, the fund rules shall state the manner in which such fees are calculated. The maximum amount of the fees shall be stated as a percentage of the value of the units. It shall be stated whether the fees accrue to the investment fund or to the company conducting fund activities.

The fund rules shall contain information regarding the maximum fixed fee which may be debited from the investment fund in order to cover the company's management fee. The information shall include costs for safekeeping, supervision and auditors. The fee shall be stated as an annual percentage share of the fund's value.

Where a performance-based management fee is debited from the investment fund, the fee model including the manner in which the fee is calculated shall be specifically stated in the fund rules. It shall state the conditions for the fee as well as the manner in which the fee is calculated and debited from the fund.

Where a significant portion of the investment fund's means are invested in other investment funds or undertakings for collective investments, the fund rules shall contain a reference to the full prospectus for information on the maximum fixed and performance-based management fee that may be charged for management of the investment funds or undertakings for collective investments in which fund units the means are invested in.

## **Dividends**

**Section 13** The fund rules shall state whether the investment fund distributes dividends to unit holders or another party. Where the investment fund distributes dividends, information shall be provided as to when distribution takes place. The principles governing what may be distributed shall be stated as yield on the fund's holdings, outstanding residual amount from any distributable amount from previous years, realised and unrealised increases in value or any other distributable amount.

Where distributed funds are to be used to acquire new units in the investment fund, this shall be specifically stated.

## **The investment fund's financial year**

**Section 14** The fund rules shall state the financial year which is applicable to the investment fund.

## **Half-yearly reports and annual reports, amendments to fund rules**

**Section 15** The fund rules shall contain information regarding when and where half-yearly reports and annual reports are published and information regarding where amendments to the fund rules are published.



## **Pledging and assignment**

**Section 16** The fund rules shall state whether it is possible for unit holders to pledge their units and, if so, the manner in which such may be effected. In addition, it shall be stated where it is not possible to assign the fund units to a third party.

## **Other necessary and reasonable information**

**Section 17** The fund rules may include other information which the managing company deems necessary for the unit holders and which Finansinspektionen deems to be reasonable for the unit holders. Such information shall be included in the fund rules only after the information stated in sections 2–16.

## **Chapter 15. Eligible assets**

### **Transferable securities**

**Section 1 Means** in an investment fund may be invested in transferable securities which fulfil the following criteria:

1. the potential loss which the UCITS may incur with respect to holding those instruments is limited to the amount paid for them;
2. the liquidity of these instruments does not compromise the ability of the company conducting fund activities to comply with the requirements in Chapter 4, section 13, first paragraph of the Investment Funds Act (2004:46);
3. a reliable valuation is available for these instruments as follows:
  - a) for transferable securities which are included in the fund pursuant to Chapter 5, section 3 of the Investment Funds Act in the form of accurate, reliable and regular prices which are either market prices or prices made available by valuation systems independent from the issuer;
  - b) for transferable securities which are included in the fund pursuant to Chapter 5, section 5 of the Investment Funds Act in the form of a valuation on a periodic basis which is derived from information from the issuer of the security or from qualified investment research;
4. appropriate information on these instruments is available as follows:
  - a) for transferable securities which are included in the fund pursuant to Chapter 5, section 3 of the Investment Funds Act in the form of regular, accurate and comprehensive information to the market on the security or, where relevant, in the portfolio in which the security is included,
  - b) for transferable securities which are included in the fund pursuant to Chapter 5, section 5 of the Investment Funds Act in the form of regular, accurate information to the company on the security or, where relevant, on the portfolio in which the security is included,
5. they are negotiable,
6. the acquisition of the instruments is consistent with the investment objectives pursuant to the fund rules, and

7. the company's system for risk management pursuant to Chapter 5, section 2 of the Investment Funds Act adequately captures the risks associated with the instruments.

Transferable securities which are admitted to trading on a regulated market or an equivalent market outside the EEA, or are the object of regular trading on any other market that is regulated and open to the public, are presumed to fulfil the requirements in 2 and 5, if the company does not have access to information which would lead to a different conclusion.

**Section 2** Transferable securities shall also include:

1. units in closed end funds constituted as investment companies or as unit trusts and which:

- a) fulfil the requirements in section 1,
- b) are subject to corporate governance mechanisms applied to companies, and
- c) where asset management activity is carried out by another entity on behalf of the closed end fund, that entity is subject to national regulation for the purpose of investor protection,

2. units in closed end funds constituted under the law of contract and which:

- a) fulfil the requirements in section 1,
- b) are subject to corporate governance mechanisms equivalent to those applied to companies as referred to in 1b, and
- c) are managed by an entity which is subject to national regulation for the purpose of investor protection,

3. financial instruments which:

- a) fulfil the requirements in section 1, and
- b) are backed by, or linked to the performance of, other assets, which may differ from those referred to in Chapter 5, section 1, second paragraph, first sentence of the Investment Funds Act (2004:46).

Where a financial instrument covered by the first paragraph, point 3 contains an embedded derivative component as referred to in section 12, the requirements contained in Chapter 5, sections 2 and 13 of the Investment Funds Act (2004:46) and the additional requirements set out in Chapter 16 shall apply to that component.

### **Money market instruments**

**Section 3** Means in an investment fund may be invested in money market instruments which fulfil one of the following criteria:

- 1. they have a maturity at issuance of up to and including a maximum of 397 days,
- 2. they have a residual maturity of up to and including a maximum of 397 days,

3. they undergo regular performance adjustments in line with money market conditions at least every 397<sup>th</sup> day;
4. their risk profile, including credit and interest rate risks, corresponds to that of financial instruments which have a maturity as referred to in points 1 or 2, or which is subject to a performance adjustments as referred to in point 3.

**Section 4** The requirement that money market instruments in accordance with the definition set out in the Investment Funds Act (2004:46) shall be liquid, shall be understood as a reference to financial instruments which can be sold at limited cost in an adequately short time frame, taking into account the obligation pursuant to Chapter 4, section 13, first paragraph of the same Act.

The requirement that money market instruments shall have a value which can be accurately determined at any time, shall be understood as a reference to instruments for which accurate and reliable valuations systems are available which:

1. enable the company conducting fund activities to calculate a NAV in accordance with the value at which the financial instrument held in the portfolio could be exchanged between knowledgeable parties which are independent of each other and which have an interest in the transaction being completed, and
2. are based either on market data or on valuation models, including systems based on amortised costs.

The criteria referred to in paragraphs 1 and 2 shall be presumed to be fulfilled in the case of financial instruments which are normally dealt in on the money market and which are admitted to trading on a regulated market or equivalent market outside the EEA or subject to regular trading at any other market that is regulated and open to the public, unless there is information available to the company that would lead to a different conclusion.

**Section 5** The requirement contained in Chapter 5, section 4 of the Investment Funds Act (2004:46) for other money market instruments than such as referred to in Chapter 5, section 3 of the same Act and the rules of the issue or the issuer of the instruments entails a specific protection for investors shall be understood as a reference to instruments which fulfil the following criteria:

1. they fulfil one of the criteria set out in section 3 and all the criteria set out in section 4, the first and second paragraphs,
2. appropriate information is available on them, including information which allows an appropriate assessment of the credit risks related to the investment in such instruments, taking into account the second, third and fourth paragraphs, and
3. they are freely transferable.

For money market instruments covered by Chapter 5, section 4, subsections 2 and 4 of the Investment Funds Act, or for those money market instruments which have been issued by a local or regional authority of a Member State or by an international public organisation but which has not been guaranteed by a Member State, or in the case of a federal State which is a Member State, by one of the members making up the federation, appropriate information as referred to in the first paragraph, point 2, shall consist of the following:

1. information on both the issue or issuance programme and the legal and financial situation of the issuer prior to the issue of the money market instrument,
2. updates of the information referred to in point 1 on a regular basis and whenever a significant event occurs,
3. the information referred to in point 1, verified by appropriately qualified third parties not subject to instructions from the issuer, and
4. available and reliable statistics on the issue or the issue programme.

For money market instruments covered by Chapter 5, section 4, subsection 3 of the Investment Funds Act, appropriate information referred to in the first paragraph, point 2 shall consist of the following:

1. information on the issue or issuance programme and on the legal or financial situation of the issuer prior to the issue of the money market instrument,
2. updates of the information referred to in point 1 on a regular basis and whenever a significant event occurs, and
3. available and reliable statistics on the issue or the issuance programme or other data enabling an appropriate assessment of the credit risks related to an investment in such instruments.

Appropriate information as referred to in the first paragraph of point 2 shall consist of information on the issue or issuance programme or on the legal and financial situation of the issuer prior to the issuance of the money market instrument, for money market instruments which:

- have been issued or guaranteed by a central authority, the European Union, the European Investment Bank, a non-Member State or one of the states which constitute the states making up the federation and
- have not been issued but which have been guaranteed by a local or regional authority or public organisation of which one or more Member States belong.

**Section 6** The requirement in Chapter 5, section 4, subsection 3 of the Investment Funds Act (2004:46) that the body that has issued or guaranteed the money market instruments are subject to and comply with such prudential rules laid down by Community law shall be understood as a reference to an issuer which is subject to and complies with prudential rules and fulfils one of the following criteria:

1. it is domiciled in the European Economic Area,
2. it is domiciled in an OECD country belonging to the Group of Ten,
3. it has at least investment grade rating,
4. it can be demonstrated on the basis of an in-depth analysis of the issuer that the prudential rules applicable to that issuer are at least as stringent as those laid down by Community law.

**Section 7** The requirement in Chapter 5, section 4, subsection 4c of the Investment Funds Act (2004:46) that the money market instruments shall have been issued by an entity that finances securitisation shall be understood as a reference to

structures, whether in corporate, trust or contractual form, set up for the purpose of securitisation activities.

The requirement in Chapter 5, section 4, subsection 4c of the Investment Funds Act that the entity that has issued money market instruments benefitting from banking liquidity lines, shall be understood as a reference to banking facilities secured by an undertaking which itself complies with the requirements in Chapter 5, section 4, subsection 3 of the same Act.

### **Derivative instruments**

**Section 8** Financial derivative instruments may be included in an investment fund if they are liquid. The liquidity requirement shall be considered to be met if the instruments fulfil the following criteria:

1. underlying components consisting of one or more of the following:

a) assets pursuant to Chapter 5, section 1, second paragraph, first sentence of the Investment Funds Act (2004:46), including financial instruments having one or several characteristics of those assets,

b) interest rates,

c) foreign exchange rates or currencies,

d) financial indices,

2. in the case of OTC derivatives, that they comply with the conditions set out in Chapter 5, section 12, second paragraph of the Investment Funds Act.

**Section 9** Financial derivative instruments as referred to in Chapter 5, section 12 of the Investment Funds Act (2004:46) shall be taken to include instruments which fulfil the following criteria:

1. they allow the transfer of the credit risk of an asset as referred to in section 8, subsection 1 independently from the other risks associated with that asset;

2. they do not result in the delivery or in the transfer of assets, including in the form of cash, other than those referred to in Chapter 5, section 1, second paragraph, first sentence of the Investment Funds Act;

3. they comply with the criteria for OTC derivatives set forth in Chapter 5, section 12, second paragraph of the Investment Funds Act and section 10;

4. the risks that are associated with them are adequately captured by the risk management system and by the internal control mechanisms in the case of risks of asymmetry of information between the company conducting fund activities and the counterparty to the credit derivative resulting from potential access of the counterparty to non-public information on firms the assets of which are used as underlying components by the credit derivative.

Commodity derivatives may not be included in a UCITS. The regulations contained in Chapter 6, section 2, second paragraph of the Investment Funds Act apply for special funds.

**Section 10** The requirement in Chapter 5, section 12, second paragraph, point 2 of the Investment Funds Act (2004:46) that the derivative instrument can be sold, redeemed or terminated by an equalising transaction at a fair value, shall be understood as the amount at which an asset can be transferred or a debt settled between knowledgeable willing parties in an arm's length transaction.

The requirement in Chapter 5, section 12, second paragraph, point 2 of the Investment Funds Act that the derivative instrument shall be subject to a reliable and verifiable valuation shall be understood as a valuation carried out by the company conducting fund activities and the equivalent fair value referred to in the first paragraph, which is not only based on market data from the counterparty and which fulfils the following criteria:

1. the basis for the valuation is either a reliable up-to-date market value for the instrument, or, if such a value is not available, a pricing model using an appropriate recognised methodology;
2. verification of the valuation is carried out by one of the following:
  - a) by an appropriate third party which is independent from the counterparty of the OTC derivative, and at an adequate frequency and in such a way that the company is able to check it, or
  - b) by a unit within the company which is independent from the department in charge of asset management and which is adequately equipped for this purpose.

### **Financial indices**

**Section 11** Financial indices pursuant to Chapter 5, section 12, first paragraph, point 1 of the Investment Funds Act (2004:46) shall be understood as a reference to indices which fulfil the following criteria:

1. they are sufficiently diversified, in that the following criteria are fulfilled:
  - a) the index is composed in such a way that price movements or trading activities regarding one component do not unduly influence the performance of the whole index,
  - b) where the index is composed of assets referred to in Chapter 5, section 1, second paragraph, first sentence of the Investment Funds Act, its composition is at least diversified pursuant to Chapter 5, section 7 of the same Act,
  - c) where the index is composed of other assets than those referred to in Chapter 5, section 1, second paragraph, first sentence of the Investment Funds Act, it is diversified in a way which is equivalent to that provided for in Chapter 5, section 7 of the same Act,
2. they represent a suitable benchmark for the market to which they refer, in that the following criteria are fulfilled:
  - a) the index measures the performance of a representative group of underlying components in a relevant and appropriate way,

b) the index is revised or rebalanced periodically to ensure that it continues to reflect the markets to which it refers following criteria which are publicly available,

c) the underlying components are sufficiently liquid, which allows users to replicate the index, if necessary,

3. they are published in an appropriate manner, in that the following criteria are fulfilled:

a) their publication process relies on sound procedures to collect prices and to calculate and to subsequently publish the index value, including pricing procedures for components where a market price is not available,

b) material information on matters such as index calculation, rebalancing methodologies, index changes or any operational difficulties in providing timely or accurate information is provided on a wide and timely basis.

Where the composition of assets which are used as underlying components of financial derivatives pursuant to Chapter 5, section 1, second paragraph, first sentence of the Investment Funds Act does not fulfil the criteria set out in section 8, they shall be regarded as financial derivatives based on a composition of the assets as referred to in section 8, subsection 1a–c.

### **Transferable securities and money market instruments embedding a derivative**

**Section 12** Transferable securities embedding a derivative pursuant to Chapter 5, section 13, fourth paragraph of the Investment Funds Act (2004:46) shall be understood as a reference to financial instruments which fulfil the criteria set forth in section 1 and which contain a component that fulfils the following criteria:

1. by virtue of that component some or all of the cash flows that otherwise would be required by the transferable security which functions as host contract can be modified according to a specified interest rate, financial instrument price, foreign exchange rate, index of prices or rates, credit rating or credit index, or other variable, and therefore vary in a way similar to a stand-alone derivative,

2. its economic characteristics and risks are not closely related to the economic characteristics and risks of the host contract, and

3. it has a significant impact on the risk profile and pricing of the transferable security.

Money market instruments which fulfil one of the criteria set out in section 3 and all the criteria set out in section 4, first and second paragraphs thereof and which contain a component which fulfils the criteria set out in the first paragraph shall be regarded as money market instruments embedding a derivative.

A transferable security or a money market instrument shall not be regarded as embedding a derivative where it contains a component which is contractually transferable independently of the transferable security or the money market instrument. Such a component shall be deemed to be a separate financial instrument.

## **Techniques and instruments for the purpose of efficient portfolio management**

**Section 13** Techniques and instruments pursuant to Chapter 5, section 1, third paragraph of the Investment Funds Act (2004:46) refers to transferable securities and money market instruments and which are used for the purpose of increasing the efficiency of portfolio management shall be understood as a reference to techniques and instruments which fulfil the following criteria:

1. they are economically appropriate in that they are realised in a cost-effective way;
2. they are entered into for one or more of the following specific aims:
  - a) reduction of risks,
  - b) reduction of costs,
  - c) increase of the performance of the investment fund with a level of risk which is consistent with the risk profile of the fund and the risk diversification rules laid down in Chapter 5 of the Investment Funds Act;
3. their risks are adequately captured by the risk management process associated with them.

## **Index replicating UCITS**

**Section 14** Replicating the composition of a particular stock index or debt securities index pursuant to Chapter 5, section 7 of the Investment Funds Act (2004:46), shall be understood as a reference to replication of the composition of the underlying assets of the index, including the use of derivatives or other techniques and instruments as referred to in Chapter 5, section 1, third paragraph of the same Act and section 13.

An index whose composition is sufficiently diversified pursuant to Chapter 5, section 7, first paragraph, point 1 of the Investment Funds Act, shall be understood as a reference to an index which complies with the risk diversification rules in Chapter 5, section 7, second paragraph of the same Act.

An index which represents an adequate benchmark for the market to which it refers pursuant to Chapter 5, section 7, first paragraph, point 2, of the Investment Funds Act shall be understood as an index provider which uses a recognised methodology that generally does not result in the exclusion of a major issuer of the market to which it refers.

An index which is published in an appropriate manner pursuant to Chapter 5, section 7, first paragraph, point 3 of the Investment Funds Act shall be understood as a reference to an index which fulfils the following criteria:

1. it is accessible to the public,
2. the index provider is independent from the index-replicating investment fund.

That set out in the fourth paragraph, point 2 shall not preclude index providers and the company conducting fund activities forming part of the same economic group, provided that effective arrangements for the management of conflicts of interest are in place.



## Chapter 16. Trading in derivative instruments and the use of other techniques and instruments

### Generally

**Section 1** A fund management company may not, on behalf of a UCITS, make such investments through the use of derivative instruments or such techniques and instruments as referred to in Chapter 15, section 13, as, in reality, entail that the investment provisions stated in the Investment Funds Act (2004:46), in these regulations, or in the fund rules are exceeded.

**Section 2** A UCITS can use derivative instruments either in order to increase efficiency of management or as part of the investment objectives.

### Derivative instruments in order to increase efficiency of management

**Section 3** A UCITS may, in order to increase efficiency of management, use derivative instruments in order to reduce costs and risks in the management, provided that this is stated in the fund rules. *Reducing costs and risks in the management* refers to such trading in derivative instruments as is intended to protect the value of the fund's underlying assets or cost-saving measures in order to maintain the fund's investment objectives.

The use of derivative instruments in order to reduce costs and risks in the management does not include such trading as intended to increase performance and create leverage in the UCITS. *Leverage* means that the fund's investment scope is greater than the investment scope which follows from the NAV .

When calculating exposure, derivative positions shall be converted into a comparable position in the underlying assets. Forwards/futures contract, swaps, and other similar derivative instruments shall be calculated in accordance with the underlying exposed value. For options contracts, a delta calculation shall be made. A delta calculation shall be made in accordance with an accepted model for options valuation. Where a delta calculation cannot be made, options shall be calculated in accordance with the underlying exposed value. Exposure through derivative instruments for hedging shall not be included in the calculation of exposure. If hedging occurs, the conditions for such shall be stated in the fund rules.

**Section 4** Where a UCITS does not possess liquidity for the acquisition of such assets which may constitute underlying assets for derivative instruments pursuant to Chapter 5, section 12, first paragraph of the Investment Funds Act (2004:46), a fund may not purchase aforementioned forwards/futures contracts, write put options with respect to the aforementioned assets or acquire call options with respect to the aforementioned assets.

A UCITS may, however, purchase interest-bearing transferable securities or money market instruments under a forward/future contract irrespective of whether or not the fund, at the time of the purchase under the forward/future contract, holds liquidity to acquire the aforementioned assets, provided:

1. the fund's assets include other interest-bearing transferable securities or money market instruments which mature within one month from the date of the aforementioned forward/futures purchase, and

2. the assets purchased under forward/futures contracts are to be delivered only after the other interest-bearing transferable securities or money market instruments have matured.

**Section 5** A UCITS may, in addition to that stated in sections 3–4, but still as a part of increasing efficiency of management, use derivative instruments in order to increase performance and create leverage in the fund. This may occur under the conditions set out in Chapter 6 and shall be stated in the fund rules.

#### **Derivative instruments as a part of the investment objective**

**Section 6** A UCITS may invest in derivative instruments as part of the fund's investment objective provided that such is stated in the fund rules. Gross exposure in derivative instruments may not exceed 100 per cent of the NAV .

When calculating exposure, derivative positions shall be converted into a comparable position in the underlying assets. Forward/futures contracts, swaps, and other similar derivative instruments shall be calculated in accordance with the underlying exposed value. A delta calculation shall be made with respect to options contracts. A delta calculation shall be made in accordance with any accepted model for option valuation.

A UCITS may, alternatively, calculate exposure through use of a Value-at-Risk model (VaR model). The model selected by the UCITS may only be used subsequent to approval by Finansinspektionen. According to this model, the fund's total risk, including derivative instruments, may not be more than 100 per cent higher, compared with the fund's total risk, excluding derivative instruments.

Exposure through derivative instruments in which currency is an underlying asset, shall not be included in the calculation of the exposure pursuant to the first–third paragraphs provided that it refers to currency hedging and that the conditions for this are set out in the fund rules.

#### **Exposure vis-à-vis single issuers**

**Section 7** When calculating exposure vis-à-vis a single issuer, a UCITS may net the exposures that the fund has vis-à-vis the same issuer. With respect to UCITS that use derivative instruments, forwards/futures contracts, swaps and other similar derivative instruments that relate to a single issuer shall be recalculated to the underlying exposed value. With respect to options that relate to a single issuer, a delta calculation shall be made pursuant to sections 3 and 6.

Where a UCITS which uses derivative instruments in order to increase the efficiency of management, pursuant to section 3, does not make a delta calculation of option contracts, the following applies instead: Held call options and written put options which relate to a single issuer shall be calculated in accordance with the underlying contracted amount. Written call options and held put options may not, however, be used in order to reduce the exposure vis-à-vis a single issuer.

#### **Coverage rules and negative exposure in derivative instruments trading**

**Section 8** Where a derivative instrument, automatically or upon request by the counterparty, may lead to delivery of the derivative instrument's underlying asset,

the UCITS shall possess delivery capacity of the underlying asset during the entire term of the derivative contract.

The delivery capacity requirement pursuant to the first paragraph can be fulfilled by the UCITS holding other financial instruments whose risks correspond to the underlying financial instruments' risks and by these other financial instruments being sufficiently liquid. This requires that the instruments on each occasion can be used in order to purchase the underlying instrument which shall be delivered and that the additional market risk for this transaction has been assessed in an adequate manner. The delivery capacity requirement pursuant to the first paragraph can also be fulfilled by the fund holding assets deposited in an account with the credit institution pursuant to Chapter 5, section 10 of the Investment Funds Act (2004:46) which can be used in order to purchase the underlying instrument which shall be delivered and that the additional market risk for this transaction has been assessed in an adequate manner.

Where the derivative instrument is subject to automatic cash settlement or at the UCITS' request and therefore cannot result in the delivery of the underlying asset, the following shall apply instead: In such cases, the UCITS shall hold a corresponding underlying asset or equivalent asset. However, the aforesaid is conditional on such assets being held during the entire term of the derivative contract. *Equivalent assets* refer to such assets that have a high correlation with the underlying assets of the derivative instrument.

The delivery capacity requirement pursuant to the third paragraph can be fulfilled by the UCITS holding other substantially liquid assets. One condition, however, is that these assets are held during the entire term of the derivative contract and that a risk adjustment is made on a suitable scale (haircut). *Substantially liquid assets* refer to a deposit to an account at a credit institution pursuant to Chapter 5, section 10 of the Investment Funds Act (2004:46), liquid debt securities with the first credit rating or other assets which on short notice can be converted into a price that closely correlates with the asset's current value on its own market.

A UCITS' trading in derivative instruments may, when cover occurs pursuant to the second or fourth paragraph, result in the fund having a negative exposure in a single currency, single equity, single equity market, single fixed income market or single financial index, provided that it is stated in the fund rules. When the cover occurs pursuant to the first or third paragraph, the fund's trading in derivatives instruments may not result in an equivalent negative exposure.

### **Counterparty risks in conjunction with trading in OTC derivatives**

**Section 9** Where the UCITS, in accordance with the fund rules, may use such derivative instruments as stated in Chapter 5, section 12, second paragraph of the Investment Funds Act (2004:46), the method used in calculating the counterparty risk shall be designed taking into consideration the provisions set forth in Chapter 18, sections 7–11 of Finansinspektionen's Regulations and General guidelines governing capital adequacy and large exposures (FFFS 2007:1). The so-called risk method in accordance with the same regulations and general guidelines may be used as an alternative. Where this risk method is used, that set forth in the third and fourth paragraphs shall be applied, taking into consideration the corresponding regulations that apply for the risk method.

A derivative transaction shall be considered to lack a counterparty risk if it is executed on a market where the clearing organisation fulfils the following requirements:

1. Participants in the clearing shall provide collateral on a daily basis the exposures that they subject the clearing organisation to.

2. The collateral shall cover both current exposure and any future exposure.

Collateral can be used to reduce a UCITS' counterparty risk provided that the requirements pursuant to Chapter 25, sections 1–13 of Finansinspektionen's Regulations and General guidelines governing capital adequacy and large exposures are fulfilled and that the collateral takes into consideration future value changes:

1. mark-to-market valuations are conducted daily and exceed the value of the risk amount,
2. is liquid and has negligible risk exposure,
3. is legally valid, and
4. can be appropriated by the UCITS at any time.

A UCITS may net its OTC derivative positions vis-à-vis the same counterparty provided that the net calculation:

1. fulfils the conditions in Chapter 26, sections 25–27 of Finansinspektionen's Regulations and General guidelines governing capital adequacy and large exposures, and
2. are based on legally binding agreements which fulfil the requirements set forth in Chapter 26, sections 1–11 of Finansinspektionen's Regulations and General guidelines governing capital adequacy and large exposures.

### **Techniques and instruments**

**Section 10** A UCITS may use such techniques and instruments, with the exception of derivative instruments, as stated in Chapter 15, section 13 in order to reduce costs and risks in the management and in order to increase performance and create leverage in the fund.

When calculating the exposure, the positions pursuant to the first paragraph shall be converted into a comparable position in the underlying assets.

Where a UCITS uses these techniques and instruments in order to create leverage in the fund, it shall be stated in the fund rules.

A UCITS may not lend out financial instruments (securities loans) to a greater extent than corresponds to 20 per cent of the NAV .

**Section 11** Securities loans from a UCITS may be made only against satisfactory collateral subject to terms and conditions customary on the market. Securities loans may be made to or via clearing organisations or securities institutions. Securities loans may also be made to, or via, a foreign financial institution which:

1. is entitled to enter into such agreements,
2. with respect to its securities activities, is under the supervision of an authority or other competent body, and
3. are generally recognised on the market.

A UCITS' holdings of financial instruments with respect to an issuer, including borrowed and lent financial instruments with respect to the same issuer, may at no time exceed the limitation rules set forth in Chapter 5 of the Investment Funds Act (2004:46).

### **Specifically regarding special funds**

**Section 12** The provisions set forth in sections 1–11 shall apply to special funds insofar as Finansinspektionen has not granted exceptions from specific provisions and such is stated in the fund rules.

A special fund, which pursuant to Chapter 6, section 2, second paragraph of the Investment Funds Act (2004:46) may have derivative instruments with other underlying assets than those referred to in Chapter 5, section 12, first paragraph of the same Act, in regards to these derivative instruments, shall apply sections 1–11 correspondingly, if Finansinspektionen has not decided on exceptions and such is stated in the fund rules.

## **PART IV**

### **Information regarding investment funds**

#### **Chapter 17. Simplified prospectuses**

##### **Generally**

**Section 1** A simplified prospectus shall contain the information set forth in Chapter 4, sections 15–16 and Chapter 5, section 18 of the Investment Funds Act (2004:46), as well as the additional information set forth in sections 2–12 of this Chapter.

The information shall be clear and easily comprehensible.

##### **Information regarding the investment fund and the company conducting fund activities**

**Section 2** The simplified prospectus shall provide a brief presentation of the investment fund and the company conducting fund activities. The presentation shall contain the following information:

1. when the fund was formed;
2. the domicile of the company and when the company was granted authorisation to conduct fund activities;
3. where the company conducts discretionary portfolio management regarding financial instruments pursuant to Chapter 1, section 4 of the Investment Funds Act (2004:46);
4. the fund's depositary; and

5. the company's auditors.

### **Fund saver profile**

**Section 3** The simplified prospectus shall contain a description of the investment fund's target group.

### **Aim and investment objectives**

**Section 4** The simplified prospectus shall provide information regarding the investment fund's investment strategy. Such information shall comprise the following:

1. the aim sought by the fund through its investments;
2. any guarantees issued by a third party in order to protect unit holders against losses as well as any limitations set forth in such guarantees;
3. where the fund has an aim to replicate one or more comparison indices and where any special strategy has been used in order to reach the aim, then sufficient information shall be provided enabling the unit holders to be able to identify the index or indices in question and understand to what extent or scope the fund may deviate from the index;
4. whether the fund's management model is based on some other comparative figure than what is stated under point 3, and whether any special strategy has been used in order to reach this aim;
5. which class of assets the fund may invest in;
6. whether the intention is that the fund's means will be invested in a specific geographical area, a particular industry or similar;
7. whether the fund's management model entails a high turnover of the fund's assets;
8. where the fund invests in bonds, information shall be provided whether such are corporate bonds or government bonds, their duration and credit rating;
9. where the fund trades in derivate instruments, it shall be stated whether this takes place:
  - in order to increase the efficiency of management for the purpose of reducing costs and risks in the management or in order to increase performance and create leverage in the fund, or
  - as a part of the fund's investment objective.

### **The fund's risk profile**

**Section 5** The simplified prospectus shall contain information regarding the investment fund's risk profile. The following information shall be provided:

1. that the investment may both increase and decrease in value and that a unit holder may get back a smaller amount than the capital invested;
2. which specific risks are associated with the fund's investment strategies and an appropriate prioritisation between the different types of risk;
3. a reference to the full prospectus for a more detailed description of the risks associated with the fund as a consequence of the investment objective;

Examples of the risks in question in the first paragraph, point 2 can include:

1. that the entire market for a class of assets is going to fall back and that prices and the value of the assets will thereby be affected (market risk);
2. that an issuer or counterparty is going to suspend payments (credit risk),
3. that a position cannot be liquidated in time at a reasonable price (liquidity risk);
4. that the value of an investment can be influenced by changed exchange rates (exchange risk or currency risk),
5. risks associated with concentrations of assets or markets.

### **Historic performance**

**Section 6** Historic performance shall be reported in the simplified prospectus in the form of a bar chart demonstrating the investment fund's performance over the past ten calendar years or, where the fund has been in existence for a shorter period of time, as many years as are available.

The performance shall be reported less deductions for taxes and fees with the exception of fees associated with sale and redemption. A clear explanation thereof shall be provided. In addition, the simplified prospectus shall provide information on whether fees are incurred in connection with sale and redemption.

Where a fund, complying with its fund rules, is managed in accordance with a benchmark or where the management fee includes a performance-based remuneration based on a benchmark, information regarding the fund's historic performance shall be compared with such a benchmark. The comparison shall take place through the benchmark's performance being displayed in the same bar chart as the fund's performance. The comparison may also be presented separately.

The simplified prospectus shall state that historic performance is no guarantee of future performance.

The simplified prospectus shall contain a calculation of the fund's average annual performance for at least a period of three, five and ten years respectively. Where a benchmark, in accordance with the fund rules, is used in the management of the fund or where the management fee includes a performance-based remuneration based on a benchmark, information on the fund's average annual performance shall be compared with the benchmark's average annual performance.

### **Tax rules**

**Section 7** The simplified prospectus shall contain information regarding rules with respect to the investment fund's taxation, including summarised information regarding the relevant tax legislation.

The simplified prospectus shall also provide information that a unit holder's taxation may be affected by individual circumstances and that investors who are unsure as to possible tax consequences should seek expert assistance.

### **Fees**

**Section 8** The simplified prospectus shall contain information regarding the costs that affect unit holders. The simplified prospectus shall contain:

1. information regarding TER (Total Expense Ratio), in other words, total costs in relation to NAV , with the exception of newly-formed investment funds in which TER cannot yet be calculated;
2. information regarding costs that are not included in TER but which are incurred by the fund;
3. a description of sale and redemption fees as well as all other costs paid directly by the unit holder, and;
4. a reference to any fee allocation agreements.

In order to further illustrate the importance of transaction costs, information shall be provided regarding the rate of turnover in the fund.

### **Dividends**

**Section 9** The simplified prospectus shall state when and how the fund provides dividends.

### **Publication of unit value**

**Section 10** The simplified prospectus shall provide information regarding where and how information is published with respect to the investment fund's unit value, and how often such occurs.

### **Sales and redemption of units**

**Section 11** The simplified prospectus shall provide information regarding the manner in which sales and redemption of fund units take place.

### **Additional information**

**Section 12** The simplified prospectus shall, in addition, provide the following information:

1. that a full prospectus as well as annual report and half-yearly report may be provided upon request before the investor purchases units in the fund and also thereafter;
2. that Finansinspektionen exercises supervision over the investment fund and the company conducting fund activities;
3. regarding where and when additional information may be provided to the investor;



4. who is the complaints officer; and
5. the date of publication of the simplified prospectus.

## **Chapter 18. Full prospectus**

### **Generally**

**Section 1** A full prospectus shall contain the information set forth in Chapter 4, sections 15–16 and Chapter 5, section 18 of the Investment Funds Act (2004:46) with the clarifications set forth in sections 2–5 of this Chapter.

### **Delegation agreements**

**Section 2** The full prospectus shall provide information on whether the company conducting fund activities has delegated another party to perform certain work or certain functions and, if so, to whom.

### **The fund**

**Section 3** The full prospectus shall contain the following information concerning the investment fund:

1. the fund's name;
2. who maintains a register of all holders of units in the fund;
3. whether or not there is any restriction on the possibility to execute sale and redemption orders for fund units;
4. the circumstances under which the fund may cease to exist or be transferred and the manner in which and when the unit holders will be informed thereof.

### **The fund's risk profile**

**Section 4** The full prospectus shall contain a detailed description of the investment fund's risk profile. The description shall address the specific risks that exist based on the fund's investment strategy.

### **Fees**

**Section 5** The full prospectus shall contain the following information:

1. information, stated as a percentage of the value of the fund units, regarding the maximum fee which the company that manages the investment fund may charge upon sale or redemption of fund units;
2. information, stated as a percentage of the value of the fund units, regarding the current fee which the company that manages the investment fund charges upon sale or redemption of fund units in the fund;
3. information, stated as an annual percentage of the fund's value, regarding the maximum fixed fee with which the company that manages the investment fund

may debit the fund in order to cover management costs, including costs for safekeeping, supervision and auditors;

4. information, stated as an annual percentage of the investment fund's value, regarding the current fee with which the company that manages the fund debits the fund in order to cover the costs stated in point 3, and;

5. where a performance-based management fee is debited the investment fund, an easily comprehensible and clear calculation should be included showing the effects of the fee model. The calculation shall be accompanied by explicit information explaining how the fee model works and describing any effects which the fee model may entail.

Information pursuant to the first paragraph, points 2, 4 and 5 may be provided in a separate appendix attached to the full prospectus.

## **Chapter 19. Annual reports and half-yearly reports with respect to investment funds**

### **General provisions on annual reports**

#### *Generally*

**Section 1** The provisions in this Chapter shall be applied by companies conducting fund activities in accordance with the Investment Funds Act (2004:46) in conjunction with the preparation of annual reports and half-yearly reports.

#### *Determination of current market value*

**Section 2** The investment fund's holdings shall be valued based on current market value. In this context, *holdings* also include derivative instruments and liabilities.

Current market value may be determined through different methods, which shall be applied in the following order:

1. where the financial instrument is traded on an active market, the last price paid on the closing day shall be used. Where the closing day is not a trading day, the aforesaid shall apply to the last trading day prior to the closing day;
2. where the financial instrument is not traded on an active market, the current market value shall be derived from information regarding similar transactions which took place under market conditions during the most recent period; and
3. where methods 1 or 2 cannot be applied or are obviously misleading, the current market value shall be determined through use of a valuation model which is established on the market.

#### *The parts of the annual report*

**Section 3** An annual report shall contain:

1. a balance sheet;

2. a profit and loss statement;
3. information regarding the fund's holdings and positions in financial instruments;  
and
4. a management report.

#### *Accurate representation*

**Section 4** The annual report shall be prepared in its entirety and present an accurate representation of the fund's assets and liabilities, exposure to financial risks and results. Supplementary information shall be provided where necessary in order to provide an accurate representation.

#### **Balance sheet**

**Section 5** In the balance sheet, a summary shall be provided of all reported assets and liabilities attributable to the fund as per the closing date. The balance sheet shall be concluded with information regarding the NAV. The balance sheet shall be prepared in accordance with the format in *Appendix 7*. Items other than those set forth in the Appendix may be included provided that the content thereof is not already covered by other items in the Appendix. The items may be divided into sub-items.

**Section 6** Comparison figures shall be stated for corresponding periods in previous years.

**Section 7** In the balance sheet, financial instruments with a positive market value shall be reported as assets, while instruments with negative market value shall be reported as liabilities. The item *Financial instruments with negative market value*, for example, refers to derivative instruments with a negative market value.

**Section 8** Securities which are lent out shall be reported as securities in the balance sheet. Borrowed securities shall not, however, be reported as assets.

The market value of received collateral shall be stated as a memorandum item.

The market value of lent securities shall be stated as a memorandum item.

**Section 9** Information shall be provided as a memorandum item regarding the collateral pledged by the fund, expressed in kronor and as a percentage of the NAV

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#### **Profit and loss statement**

**Section 10** The profit and loss statement shall be prepared in accordance with the format in *Appendix 8*. Comparison figures shall be stated for corresponding periods in previous years.

## **Description of the profit and loss statement items**

### **Income and changes in value**

#### **Changes in value of equity-related financial instruments**

This item refers to realised and unrealised profits as well as realised and unrealised losses during the period.

The profit/loss item covers all equity-related financial instruments, *inter alia*, equity options, equity futures, convertible debentures, participating debentures, units in equity funds and equity index bonds.

#### **Changes in value of fixed income-related financial instruments**

This item refers to realised and unrealised profits as well as realised and unrealised losses on bonds (not discount instruments) during the period.

Fixed income-related instruments include, *inter alia*, bonds, units in fixed income funds, interest-rate options as well as interest-rate forwards/futures where the latter refer to bonds.

#### **Interest income**

This item refers to interest on interest-related instruments, including dividends on fixed income funds, changes in value of discount instruments as well as bank interest and any other interest, both accrued and received.

#### **Dividends**

This item refers to dividends on equities and units in investment funds (however, not units in fixed income funds). The dividends from mixed investment funds shall also be included where at least one half of the mixed investment fund's market value consists of equities or equity-related instruments. Dividends and withholding tax on foreign equities shall be reported net, taking into consideration any restitution.

Compensation for dividends in connection with the lending of equities shall also be included here.

#### **Net exchange rate profits and losses**

This item refers to the results from currency derivatives and exchange rate changes on bank accounts held in foreign currency. The provisions of Chapter 4, section 10 of the Investment Funds Act (2004:46) whereby holdings in an investment fund shall be valued at the market value entail that realised and unrealised profits and losses are taken up in their entirety.

#### **Other income**

This item refers, e.g., to premiums in conjunction with the lending of securities. Insofar as a unit holder has provided the fund with income as compensation for transaction costs, such income shall be reported here separately.

### **Costs**

#### **Management costs**

Where the fund pays remuneration only to the company conducting fund activities, which, in turn, makes payment to a depository and the supervisory authority, such payment shall be stated as a total amount under "Management costs". In other cases, the payments shall be stated separately in the profit and loss statement in accordance with the format in *Appendix 8*.

Interest expenses

This item refers to interest expenses paid by the fund in conjunction with borrowing.

Other costs

This item refers to premiums in conjunction with the borrowing of equities as well as compensation paid for dividends in conjunction with the borrowing of equities, transaction costs (where such amounts are not included under the item “Change in value”) as well as any other costs. Specification shall take place either directly in the profit and loss statement or in notes.

Tax

This item refers to the fund’s estimated tax cost based on the fund’s taxable results.

**Supplementary information***Generally*

**Section 11** The annual report shall contain information regarding the manner in which the market value of assets and liabilities attributable to the investment fund has been determined. Specific information shall be provided where significant uncertainty prevails regarding the reported value, for example, as a consequence of applied methods for estimation of market value or where there is no regular trading in the financial instrument in question.

**Section 12** Where the balance sheet items, current receivables and current liabilities, amount to significant sums, the items shall be specified in notes.

*Holdings and positions in financial instruments*

**Section 13** The investment fund’s holdings of, and positions in, financial instruments shall be specified based on geographic area, industry or in any other manner which is relevant, based on the fund’s investment objectives. The holding pursuant to this breakdown shall be expressed as a percentage of NAV on the closing day.

Specification shall also be made according to market value, broken down into the following categories:

1. financial instruments admitted to trading on a regulated market or equivalent market outside the EEA;
2. financial instruments that are traded regularly on any other market which is regulated and open to the public;
3. financial instruments that, within one year from the date of issue are intended to be admitted to trading on a regulated market or equivalent market outside the EEA;
4. financial instruments that, within one year from the date of issue, are intended to be traded regularly on any other market that is regulated and open to the public; and
5. other financial instruments.

When the aforesaid specification is prepared, derivative instruments shall be stated in connection with the underlying spot holding. The aforesaid shall also take place where the market value of the derivative instrument is negative. In addition, the number, however, not the value, of borrowed securities shall be included.

With respect to the above-stated breakdown, each group's share of the market value of NAV shall be stated expressed as a percentage. Information shall also be provided regarding the holding per single issuer and the market value of the holding.

The specification of holdings of financial instruments shall conclude with an aggregation of the market value of all financial instruments. In addition, the net value of the fund's other assets and liabilities, as well as the NAV, shall be stated.

The specification shall be prepared in such a manner that it is possible to trace directly the holdings and positions which together constitute specifications of the balance sheet items, "Financial instruments with positive market value" and "Financial instruments with negative market value".

In those cases where the fund holds several types of securities which are issued by a single issuer, the percentage of the NAV that consists of transferable securities and other financial instruments shall be stated in respect of each issuer.

**Section 14** Furthermore, information shall be provided regarding options and forwards/futures contracts held or issued by the investment fund. The aforesaid shall be divided into standardised and non-standardised instruments. Information shall also be provided regarding the fund's securities loans, broken down into borrowing and lending.

#### *Specification of changes in value*

**Section 15** Investment funds which, pursuant to the fund rules, may utilise capital gains for dividends shall specify changes in value of held financial instruments as stated below.

##### Equity-related financial instruments

Capital gains

Capital losses

Unrealised gains/losses

Total

##### Fixed income-related financial instruments

Capital gains

Capital losses

Unrealised gains/losses

Total

#### *Change in NAV*

**Section 16** The following information shall be provided regarding change in NAV .

##### NAV at the beginning of the year

Unit issuance

Unit redemption

Results for the year in accordance with profit and loss statement

Received accrued dividends in conjunction with issuance of units  
 Paid out accrued dividends in conjunction with redemption of units  
 Distributed dividends

#### NAV at the end of the year

**Section 17** The annual report shall contain a comparative reporting of the investment fund's performance for each of the past five years with respect to:

1. NAV ;
2. unit value;
3. dividend per unit;
4. total performance in per cent; and
5. information regarding the development during the corresponding year for a relevant comparison index, in per cent.

Where the fund has commenced its activities during the last five-year period, the performance from the start date shall be stated.

### **Management report**

#### *Development during the year*

**Section 18** The management report shall contain a description of the manner in which the total fund value has performed with respect to saving and performance. Important factors that have affected the results, such as large exchange rate changes, shall be commented on as well as other significant events, e.g. changes in investment objective or comparison index. Information shall be provided where any significant personnel or organisational changes have taken place.

The management report shall also contain information regarding key ratios that describe the investment fund's performance, risk measurement, costs as well as turnover rate regarding the fund's holdings of financial instruments.

**Section 19** The management report shall describe the total management cost expended during the year. The management cost shall be expressed in kronor for a unit holding which, at the beginning of the year, shall be assumed to be worth SEK 10,000. These units are assumed to be held in the investment fund during the entire year. Any dividend from the fund is assumed to be reinvested in new units and the value of such units shall also be included in the calculation of the total management cost.

#### *Purchase and sale of financial instruments with closely-related investment firms*

**Section 20** Information shall be provided regarding the total value of purchases and sales (turnover) of financial instruments which have taken place on behalf of the investment fund during the year with investment firms within the same group as the fund management company. Such information shall be stated as a percentage of the fund's total turnover.

*Financial derivative instruments*

**Section 21** The annual report shall state the extent to which, and the manner in which, the company conducting fund activities, has traded in options, forwards/futures contracts or other similar financial instruments on behalf of the investment fund. Where the fund is authorised to trade in the aforementioned instruments but has not utilised such possibility, this fact shall be stated in the annual report.

**Content of the half-yearly report**

**Section 22** The half-yearly report shall provide a general description of the fund's activities and development during the reporting period.

**Section 23** When the half-yearly report is prepared, the provisions of sections 2, 4, 5–9, 13 and 18, first paragraph, shall be applied.

**PART V**

**Reporting to Finansinspektionen**

**Chapter 20. Business plan**

**Section 1** A company which is authorised to conduct fund activities in accordance with the Investment Funds Act (2004:46) shall inform Finansinspektionen in writing upon the commencement of such activities.

**Section 2** Companies conducting fund activities shall continually update the business plan with the changes that have taken place in the activities.

**Section 3** Companies conducting fund activities shall submit information to Finansinspektionen regarding changes in the business plan that are of greater significance. Such reporting shall take place without delay.

**Chapter 21. Reporting of investment fund's holdings of financial instruments, etc. and risk measurement**

**Section 1** A company conducting fund activities must be able, at any given time, to present a list of each investment fund's holdings of the assets stated in the Investment Funds Act (2004:46) (in this Chapter, "Financial Instruments"). The company shall use *Appendix 9* to make such a list.

**UCITS**

**Section 2** A fund management company shall, as per the final banking day of each quarter, prepare a list of each UCITS' holdings of financial instruments in accordance with *Appendix 10*.



## Special funds

**Section 3** A company conducting fund activities shall, as per the date Finansinspektionen instructs, prepare a list of each special fund's holdings of financial instruments in accordance with *Appendix 10*.

**Section 4** A company conducting fund activities shall, as per the last day of every month, calculate and report to Finansinspektionen the special fund's risk level in accordance with the following:

1. standard deviation;
2. performance the past month; and
3. concentration risk.

The information shall be reported in accordance with *Appendix 15*.

## Information to Finansinspektionen

**Section 5** The information that shall be reported pursuant to section 2 shall be received by Finansinspektionen not later than the tenth day of the following month.

Reporting pursuant to section 4 shall be received by Finansinspektionen not later than the twenty-first day of the following month.

**Section 6** The information shall relate to each individual investment fund.

**Section 7** Finansinspektionen shall decide on exemptions from the provisions in this Chapter where special grounds exist.

## Chapter 22. Quarterly reporting for companies conducting fund activities, investment funds, etc.

**Section 1** At the end of every quarter, a fund management company shall submit information to Finansinspektionen regarding activities in accordance with the form "Quarterly Report Fund Management Companies" *Appendix 11*. Instructions on how to complete the form can be found in *Appendix 12*.

A company conducting fund activities shall submit to Finansinspektionen at the end of every quarter information on the activities for each individual investment fund in accordance with the form *Quarterly report for investment funds, Appendix 13*. Instructions on how to complete the form can be found in *Appendix 14*.

**Section 2** The quarterly report for fund management companies and investment funds respectively shall relate to the conditions on the last day of every calendar quarter (the report day).

Finansinspektionen shall have received the quarterly report not later than 21 April, 21 July, 21 October and 21 January respectively. For annual financial statements, Finansinspektionen shall receive the quarterly report for the fund management company not later than the fifteenth day of the second month after the reporting date.

If the annual financial statements do not coincide with any of the report days, the information shall be submitted on the reporting date immediately following the annual financial statements.

**Section 3** Finansinspektionen shall decide on exemptions from the provisions in this Chapter where special grounds exist.

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These Regulations shall enter into force on 23 July 2008, whereupon Finansinspektionen's Regulations governing investment funds (FFFS 2004:2) shall be repealed.

JOAKIM SCHAAF

Fredrik Westin

*Appendix 1a***Ownership assessment – natural person**

1. State which firm the acquisition relates to and what percentage of the shares and voting rights in the firm is intended to be acquired.
2. Do you or a close relation<sup>2</sup> own shares in the firm or in another firm, which in turn owns shares in the firm referred to in question 1?
3. Append a description or outline of the ownership structure in the group pre- and post-acquisition, with ownership shares stated in per cent.
4. Do you or a close relation have any other financial relationships with the firm?
5. Have you been the subject of a suitability assessment by a foreign supervisory authority within the past year? If yes, please explain.
6. During the past five years, have you been a board member, alternate board member, managing director or deputy managing director in a firm which is under the supervision of Finansinspektionen or an equivalent foreign supervisory authority? Has this firm been subject to sanctions from a supervisory authority? If yes, please explain the circumstances.
7. Have you entered into personal bankruptcy in Sweden or in a foreign country? If yes, please explain.
8. Have you been a board member or held a senior position in a firm that has been the subject of a composition or company reorganisation or was placed into insolvent liquidation or the equivalent in Sweden or in a foreign country? If yes, please state the company's name and explain the circumstances.
9. During the past five years, have you been convicted by a Swedish or foreign court for any crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, please explain the circumstances.
10. Would you like to state any other facts or circumstances which might be of relevance in the assessment of this matter?

Note: As a part of the ownership assessment, Finansinspektionen will collaborate with e.g. Rikspolisstyrelsen (Swedish National Police Board), Bolagsverket (Swedish Companies Registration Office), Skatteverket (Swedish National Tax Board), Kronofogdemyndigheten (Swedish Enforcement Authority) and Upplysningscentralen UC AB (UC AB). Finansinspektionen can also request information from foreign supervisory authorities.

The undersigned hereby certifies that the above information is correct and complete.

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<sup>2</sup> Close relation refers to e.g. a spouse, cohabitee, child, parents or other relation with whom you share living accommodations.

Date:

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Name:

Address and telephone number:

Civic registration number/date of birth:

*Appendix 1b***Ownership assessment – legal person**

1. State the applicant company's name, company registration number and address. A registration certificate for the firm not more than two months old and the company's most recent audited annual report should also be appended.
2. State which firm the acquisition relates to and what percentage of the shares and voting rights in the firm is intended to be acquired.
3. Append a description or outline of the entire ownership chain in the group, pre- and post-acquisition, with ownership shares stated in per cent.
4. State the other firms in the group or financial group that are under the supervision of Finansinspektionen or a corresponding foreign authority.
5. During the past year, has the firm been the subject of a suitability assessment by a foreign supervisory authority? If yes, please explain.
6. Would you like to state any other facts or circumstances which might be of relevance in the assessment of this matter?

Note: As a part of the ownership assessment, Finansinspektionen will collaborate with e.g. Bolagsverket (Swedish Companies Registration Office), Skatteverket (Swedish National Tax Board) and Kronofogdemyndigheten (Swedish Enforcement Authority). Finansinspektionen can also request information from foreign supervisory authorities.

The undersigned hereby certifies that the above information is correct and complete.

Date:

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Authorised signatory:

Telephone number:

*Appendix 1c*

**Management assessment – in conjunction with an ownership assessment**

1. Which firm does the management assessment relate to?
2. Have you previously been board chairman, board member or alternate board member in a firm where one or more board members were not granted a release from liability? If yes, state which firm(s).
3. Have you been the subject of a suitability assessment by a foreign supervisory authority within the past year? If yes, please explain.
4. During the past five years, have you been dismissed from a financial institution?
5. During the past five years, have you been a board member, alternate board member, managing director or deputy managing director in a firm which is under the supervision of Finansinspektionen or an equivalent foreign supervisory authority? Has this firm been subject to sanctions from a supervisory authority? If yes to either of the above questions, please explain the circumstances.
6. Have you entered into personal bankruptcy in Sweden or in a foreign country? If yes, please explain.
7. Have you been a board member or held a senior position in a firm that has been the subject of a composition or company reorganisation or was placed into insolvent liquidation or the equivalent in Sweden or in a foreign country? If yes, please state the company's name and explain the circumstances.
8. During the past five years, have you been convicted by a Swedish or foreign court for any crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, please explain.
9. Would you like to state any other facts or circumstances which might be of relevance in the assessment of this matter?

Note: As a part of the management assessment, Finansinspektionen will collaborate with e.g. Rikspolisstyrelsen (Swedish National Police Board), Bolagsverket (Swedish Companies Registration Office), Skatteverket (Swedish National Tax Board), Kronofogdemyndigheten (Swedish Enforcement Authority) and Upplysningscentralen UC AB (UC AB). Finansinspektionen can also request information from foreign supervisory authorities.

The undersigned hereby certifies that the above information is correct and complete.

Date:

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Name:

Address and telephone number:

Civic registration number/date of birth:

*Appendix 2a*

**Management assessment – questions for board members and alternate board members**

1. What experience and competence do you have within the financial sector?  
Please attach a copy of your curriculum vitae.
2. Which firm does the management assessment relate to?
3. Are you employed by a firm other than the firm referred to in question 2? If yes, state the firm and your position.
4. Are you board chairman, board member or alternate board member in a firm other than that referred to in question 2? If yes, state which firm(s).
5. Have you previously been board chairman, board member or alternate board member in a firm where one or more board members were not granted a release from liability? If yes, state which firm(s).
6. Do you directly or indirectly own shares in the firm referred to in question 2, or in any other firm, which represent 10 per cent or more of the share capital or voting capital? If yes, state in which firm(s).
7. Do you directly or indirectly own shares in the firm referred to in question 2, or in any other firm, which represent less than 10 per cent, but where the holding can still be considered to carry a significant influence on the management of the firm? If yes, state in which firm(s).
8. Do you or a close relation<sup>3</sup> have any other financial relationships with the firm referred to in question 2?
9. Do you have any other function in the firm referred to in question 2 or in the group?
10. Have you been the subject of a suitability assessment by a foreign supervisory authority within the past year? If yes, please explain.
11. During the past five years, have you been dismissed from a financial institution?
12. During the past five years, have you been a board member, alternate board member, managing director or deputy managing director in a firm which is under the supervision of Finansinspektionen or an equivalent foreign supervisory authority? Has this firm been subject to sanctions from a supervisory authority? If yes to either of the above questions, please explain the circumstances.

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<sup>3</sup> Close relation refers to e.g. a spouse, cohabitee, child, parents or other relation with whom you share living accommodations.



13. Have you entered into personal bankruptcy in Sweden or in a foreign country?  
If yes, please explain.

14. Have you been a board member or held a senior position in a firm that has been the subject of a composition or company reorganisation or was placed into insolvent liquidation or the equivalent in Sweden or in a foreign country? If yes, please state the company's name and explain the circumstances.

15. During the past five years, have you been convicted by a Swedish or foreign court for any crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, please explain.

16. Would you like to state any other facts or circumstances which might be of relevance in the assessment of this matter?

Note: As a part of the management assessment, Finansinspektionen will collaborate with e.g. Rikspolisstyrelsen (Swedish National Police Board), Bolagsverket (Swedish Companies Registration Office), Skatteverket (Swedish National Tax Board), Kronofogdemyndigheten (Swedish Enforcement Authority) and Upplysningscentralen UC AB (UC AB). Finansinspektionen can also request information from foreign supervisory authorities.

The undersigned hereby certifies that the above information is correct and complete.

Date:

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Name:

Address and telephone number:

Civic registration number/date of birth:

*Appendix 2b*

**Management assessment – questions for the managing director and deputy managing director**

1. What experience and competence do you have within the financial sector?  
Please attach a copy of your curriculum vitae.
2. Which firm does the management assessment relate to?
3. Are you managing director or deputy managing director in a firm other than the firm referred to in question 2? If yes, state which firm(s).
4. Are you employed by a firm other than the firm referred to in question 2? If yes, state in which firm(s) and your position(s).
5. Have you, in addition to your assignment as managing director or deputy managing director, any other function in the firm referred to in question 2 or in the group?
6. Are you board chairman, board member or alternate board member in a firm other than that referred to in question 2? If yes, state which firm(s).
7. Have you previously been board chairman, board member or alternate board member in a firm where one or more board members were not granted a release from liability? If yes, state which firm(s).
8. Do you directly or indirectly own shares in the firm referred to in question 2, or in any other firm, which represent 10 per cent or more of the share capital or voting capital? If yes, state which firm(s).
9. Do you directly or indirectly own shares in the firm referred to in question 2, or in any other firm, which represent less than 10 per cent but where the holding can still be considered to carry a significant influence on the management of the firm? If yes, state which firm(s).
10. Do you or a close relation<sup>4</sup> have any other financial relationships with the firm referred to in question 2?
11. Do you have any other function in the firm referred to in question 2 or in the group or financial group?
12. Have you been the subject of a suitability assessment by a foreign supervisory authority within the past year? If yes, please explain.

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<sup>4</sup> Close relation refers to e.g. a spouse, cohabitee, child, parents or other relation with whom you share living accommodations.

13. During the past five years, have you been dismissed from a financial institution?

14. During the past five years, have you been a board member, alternate board member, managing director or deputy managing director in a firm which is under the supervision of Finansinspektionen or an equivalent foreign supervisory authority? Has this firm been subject to sanctions from a supervisory authority? If yes to either of the above questions, please explain the circumstances.

15. Have you entered into personal bankruptcy in Sweden or in a foreign country? If yes, please explain.

16. Have you been a board member or held a senior position in a firm that has been the subject of a composition or company reorganisation or was placed into insolvent liquidation or the equivalent in Sweden or in a foreign country? If yes, please state the company's name and explain the circumstances.

17. During the past five years, have you been convicted by a Swedish or foreign court for any crime in respect of which imprisonment is included in the range of penalties specified for the crime? If yes, please explain.

18. Would you like to state any other facts or circumstances which might be of relevance in the assessment of this matter?

Note: As a part of the management assessment, Finansinspektionen will collaborate with e.g. Rikspolisstyrelsen (Swedish National Police Board), Bolagsverket (Swedish Companies Registration Office), Skatteverket (Swedish National Tax Board), Kronofogdemyndigheten (Swedish Enforcement Authority) and Upplysningscentralen UC AB (UC AB). Finansinspektionen can also request information from foreign supervisory authorities.

The undersigned hereby certifies that the above information is correct and complete.

Date:

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Name:

Address and telephone number:

Civic registration number/date of birth:

*Appendix 3*

## **Simplified ownership and management assessment**

Those who have been the subject of an ownership or management assessment in a corresponding role during the past 365 days may use this appendix for a simplified ownership and management assessment instead of *Appendix 1* or *2*.

Please note that if you have previously only been the subject of a register assessment, you must provide the information contained in *Appendices 1–2* to Finansinspektionen which will conduct a complete ownership and management assessment. The same applies if you for example have previously been subject to an ownership assessment and will now be the subject of a management assessment or if you have previously been assessed as a board member and will now hold a position as managing director.

1. Has anything changed with regards to the information submitted to Finansinspektionen in conjunction with the most recent ownership or management assessment? If yes, please specify.

2. Please state the previous assessment's registration number at Finansinspektionen.

Note: As a part of an ownership and management assessment, Finansinspektionen will collaborate with e.g. Rikspolisstyrelsen (Swedish National Police Board), Bolagsverket (Swedish Companies Registration Office), Skatteverket (Swedish National Tax Board), Kronofogdemyndigheten (Swedish Enforcement Authority) and Upplysningscentralen UC AB (UC AB). Finansinspektionen can also request information from foreign supervisory authorities.

The undersigned hereby certifies that the above information is correct and complete.

Date:

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Name/authorised signatory:

Address and telephone number:

Civic registration number/date of birth/company registration number: