

Finansinspektionen's Regulatory Code

Publisher: Finansinspektionen, Sweden, www.fi.se
ISSN 1102-7460



This translation is furnished solely for information purposes. Only the printed version of the regulation in Swedish applies for the application of the law.

Finansinspektionen's regulations regarding supervision of issuers' periodic financial information;

FFFS 2018:18

Published

19 November 2018

decided 13 November 2018.

Finansinspektionen prescribes¹ the following pursuant to Chapter 6, section 1, points 46 and 47 of the Securities Market Ordinance (2007:572).

Scope and definitions

Section 1 These regulations contain provisions regarding the supervision of periodic financial information carried out by a body with representatives from the area of financial reporting, a *monitoring body*.

The regulations apply to a monitoring body to which the task of monitoring issuers' periodic financial information has been outsourced in accordance with Chapter 16, section 12 of the Securities Market Act (2007:528).

Section 2 Terms and expressions used in these regulations have the same meaning as those defined in Chapter 1, section 5 of the Securities Market Act (2007:528).

Organisation of the monitoring body

Section 3 A monitoring body shall have adopted articles of association and rules of procedure for its operations.

The body shall submit to Finansinspektionen a draft of its articles of association and rules of procedure well before the resolution is held on their adoption.

The body shall regularly review the articles of association and rules of procedure and update them if necessary. The body shall also inform Finansinspektionen well in advance of any proposed changes to these documents.

Section 4 The members of a monitoring body shall be independent.

The body shall inform Finansinspektionen well in advance before appointing a new member.

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

Documentation

Section 5 A monitoring body shall have adopted and documented procedures for its monitoring.

The body shall submit to Finansinspektionen a draft of its procedures well before the resolution is held on their adoption.

The body shall regularly review its procedures and update them if necessary. The body shall also inform Finansinspektionen well in advance of any proposed changes to these procedures.

Section 6 A monitoring body shall have documented as a minimum

- the sample of the issuers whose periodic financial information the body reviews,
- how the selection is made, and
- the basis from which the body collects the sample.

The body shall also document the actions that it carries out during a review.

Section 7 A monitoring body shall have a register where it regularly registers its matters and the documents related thereto.

The register and the documents shall be maintained in an orderly, secure and transparent manner for at least ten years.

Supervision

Section 8 A monitoring body shall base its review on a sufficiently large sample of issuers in order for the supervision to contribute to maintaining confidence in the securities market. The body shall review every issuer's periodic financial information within appropriate time intervals.

Section 9 A monitoring body shall review a specific issuer's periodic financial information upon written request from Finansinspektionen.

Section 10 A monitoring body shall conduct a review without undue delay.

The body shall inform an issuer that its periodic financial information has become subject for review. The body shall also inform the issuer that the matter will be turned over to Finansinspektionen if the issuer does not cooperate.

Section 11 A monitoring body shall follow applicable regulations that regulate the supervision.

The body, in its operations, shall strive with all available means to follow the European Securities and Markets Authority's (ESMA) guidelines and recommendations related to the monitoring body's operations. This does not apply to guidelines and recommendations, or parts of such, that Finansinspektionen has informed ESMA that the authority does not follow or does not intend to follow.

The body shall consider in its monitoring consider developments within the cooperation in the area within the European Union.

Section 12 If an issuer does not cooperate with a monitoring body during a review, the body shall terminate the review of the issuer and turn the matter over to

Finansinspektionen. The body shall inform the issuer at the same time that the matter has been turned over to Finansinspektionen.

Actions in the event of infringements

Section 13 A monitoring body which, after having terminated its review of an issuer, determines that the issuer has not prepared its periodic financial information in accordance with applicable provisions, shall, unless otherwise specified in the second paragraph,

- immediately and no later than one business day after an infringement has been identified and confirmed inform Finansinspektionen about its assessment, and
- turn over all registered documentation in the matter to the authority.

If the body makes the assessment that the infringement is negligible, it shall instead request that the issuer via a written decision that

- the issuer shall correct the errors observed by the body in its future financial reporting, or
- the issuer shall publish a corrective note.

The body shall inform the issuer in writing at the same time that the matter will be turned over to Finansinspektionen for assessment if the issuer does not follow the request in the decision. The body shall send a copy of the decision to Finansinspektionen.

Section 14 If the issuer does not follow the body's decision in accordance with section 13, second paragraph, the body shall immediately turn the matter over to Finansinspektionen.

Section 15 A monitoring body shall regularly publish on its website its decisions regarding actions pursuant to section 13, second paragraph.

European cooperation

Section 16 A monitoring body shall actively participate in the European exchange of experience and contribute to a harmonised application of international accounting standards and supervisory convergence, both in Sweden and within the EEA.

Section 17 A monitoring body shall consult with Finansinspektionen with the objective of achieving a shared position on matters that arise within the cooperation within the European Union.

The first paragraph does not apply to Swedish matters where the body or Finansinspektionen shall independently reach a decision. In such cases, the body and Finansinspektionen shall only exchange information with one another regarding the decisions.

Exchange of information

Section 18 A monitoring body and Finansinspektionen shall meet once a quarter to exchange information.

The body shall call Finansinspektionen to such meetings well in advance and also suggest an agenda for the meeting. The body shall provide Finansinspektionen with the possibility of adding items to the agenda.

The body shall record minutes at these meetings. The body shall provide Finansinspektionen with the possibility of adjusting the minutes.

Section 19 A monitoring body and Finansinspektionen shall also meet to exchange information upon request if one of them should so request.

Reporting to Finansinspektionen

Section 20 A monitoring body, no later than 1 March every year, shall submit a report to Finansinspektionen on the supervision from the previous year.

The report shall contain as a minimum

- information about the supervision and the results of the reviews, and
- information about how the body has worked to comply with the requirements placed on the supervision in these regulations and other applicable rules as well as in ESMA's guidelines and recommendations.

Section 21 A monitoring body shall turn over registered documentation regarding the monitoring to Finansinspektionen upon written request from the authority.

Obligation to publish a report on monitoring

Section 22 A monitoring body shall publish a report every year on the supervision from the previous year. As a minimum, the report shall contain information about the monitoring and the results of the reviews.

The monitoring body shall publish the report on the body's website.

These regulations shall enter into force on 1 January 2019 and apply to periodic financial information published after the regulations' entry into force.

ERIK THEDÉEN

Nanny Hiort