



18 May, 2000

Swedish Ministry of Industry, Employment and Communications*Government Ownership Unit***Proposed Rules of Procedure for the Boards of Government-Owned Companies**

The Ministry of Industry, Employment and Communications hereby proposes the inclusion of the following main points when drafting the rules of procedure for boards of directors of government-owned companies. The Ministry's purpose is to ensure uniformity and quality in the work of these boards. Its proposal is also designed to provide support to new directors by helping them understand both their own role and responsibilities in the company and those of the board.

These guidelines are based on a provision of the Swedish Companies Act that entered into force on 1 January 1999 and requires that boards annually adopt rules of procedure. This provision opens up the opportunity to introduce key elements of corporate governance principles in the work of government-owned companies' boards.

The Ministry's proposal is based on generally accepted standards taken from international rules, including the OECD Principles of Corporate Governance and the Combined Code of the London Stock Exchange. It also takes into account the recommendations of America's Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees, aimed at creating transparency and credibility in financial reporting. Also influencing the Ministry's work were published Swedish ownership policy documents and guidelines on ownership issues. In addition, the Ministry interviewed a selection of individuals with far-ranging experience as company directors. Lawyers and auditors have also examined the contents of the Ministry's proposal.

Compared to the established practices of Swedish boards, the Ministry's proposal aims at stronger board involvement in company operations. Those who decide the duties of the board should therefore weigh alternatives in an effort to strike a good balance in the allocation of work between the board and the executive management.

The proposal is aimed primarily at wholly-owned government companies. In companies that are partly owned by the government, its guidelines may be applied as

much as possible after a dialogue with the other shareholders. The Ministry intends that the document be used as a tool and aid in the board's efforts to develop rules of procedure. It should consequently be applied on the basis of what is suitable for each particular company. The proposal is thus not a directive from the government, but should instead be regarded as a source of inspiration for the work of the board in the individual company.

The Ministry of Industry, Employment and Communications hereby proposes the following main points in drafting a board's rules of procedure.

1. Purpose and objectives

One basic provision should state the operational objectives of the company (including financial targets) and the purpose of its operations. It should also refer to the obligation of the board and its individual members to administer the capital invested in the company by the government and by taxpayers in order to generate value, within the limits set by the company's operational objectives.

2. Division of responsibility

2.1 Division of responsibility between board and owner

The board, through its chairman, should co-ordinate its views with representatives of the owner(s) on issues of decisive importance. Foremost among such issues are major strategic changes in the operations of the company and major acquisitions, mergers or divestments, but also, for example, decisions that entail substantial changes in the company risk profile or balance sheet.

2.2 Division of responsibility between board and managing director

According to the Swedish Companies Act, responsibility is divided between the managing director and the board of directors in such a way that the managing director shall be responsible for the day-to-day management according to guidelines and instructions laid down by the board. A clear division of responsibility is expressed in the rules of procedure by defining what type of issues the board is to deal with (see the examples in Appendix 1).

2.3 The chairman

In addition to leading the work of the board, the chairman should monitor the direction and progress of the company by means of regular contacts with the managing director. The chairman should continuously consult with the managing

director on the strategic issues that arise and should represent the company on issues concerning ownership structure.

The managing director is responsible for all the company's media contacts. In cases where the board takes over this responsibility, it is suitable that statements be made by the chairman. As needed, the chairman should also participate in important external contacts.

It is incumbent on the chairman to call extraordinary meetings of shareholders when this is appropriate in light of developments in the company.

3. Information

The board should, in principle, have access to the same information on issues that are strategically decisive to operations as the managing director. For other issues the chairman, together with the managing director, must ensure that the directors receive timely, sufficiently enlightening background material on all matters submitted to the board for its information or for a decision. If the background is insufficient for decision-making, the board shall ensure that the material is supplemented until it is adequate.

The board should see to it that it is supplied with continuous information about company developments between its meeting dates. This information should be standardised and brief and contain final results for previous periods together with expected developments plus the most important planned activities during the coming period.

New directors are expected to participate in an introductory programme that runs for a number of days at the time they join the board and that mainly consists of visits to the company's most important operations. This introduction should also include a review of the key governing documents used in the company. The managing director should be responsible for the introductory programme.

4. Board meetings

4.1 Frequency, notice of meeting, background material, strategy, personnel issues

The board's rules of procedure should contain a provision on the number of meetings, with a stipulated frequency that should include at least 5-6 meetings per year and specify the dates of these (however, there is a trend both in Sweden and internationally towards a larger number of regular meetings). In addition, extra meetings will take place when justified by events of major importance.

An official notice of each meeting and an attached agenda, plus background material, should be distributed to the directors at least one week before the meeting. The chairman of the board, together with the managing director, shall set the agenda and be responsible for it. When drafting the agenda, it is suitable for the chairman to solicit any opinions from the other directors. The chairman should also review the background material for the meeting to ensure that the information is sufficient for decision-making.

One of the board's most important tasks is to discuss strategy and visions. This includes analysing the company, its surroundings and its future, threats and opportunities. In government-owned companies, the board should therefore hold at least one extraordinary, extended strategy meeting each year. When the board has set the company's strategic course, the managing director shall formulate this decision in concrete terms. The board shall then approve this strategy document. The regular work of the board should include continuous follow-ups of the company's strategic course.

Personnel issues, including the ability of the company to recruit and retain qualified staff, with compensation issues as one of the most important components, should also receive extra emphasis at one meeting during the year. In addition, at least one meeting should take place outside the head office at one of the company's operating units, combined with a visit to these operations. When suitable, the chairman of the board should invite outside parties to board meetings, for example suppliers, customers, market analysts, legal experts and financial reporting and recruitment experts.

4.2 The agenda

The agenda of regular board meetings should include recurring topics. The chairman and the managing director should estimate the time required for discussions of each item of business, in order to ensure that the necessary attention is devoted to essential topics on the agenda.

4.3 Board minutes

The Swedish Companies Act prescribes only that board decisions shall be recorded in the minutes. They should, however, also contain notations of the main points in the presentations that occur and a summary of the discussions that follow. When decisions are made, it may be of value to describe the main alternative to the decision that was made and the reasons for the decision. This gives directors a better opportunity to remember and receive written feedback of what was said at earlier board meetings.

5. Evaluation

5.1 Evaluation of the board and the work of the directors

A written document should be compiled, containing questions about how the board of directors collectively and the individual directors fulfil their duties. Examples of how such document can be worded are presented in Appendix 2 and 3. The wording of the attached proposals should naturally be adapted to fit conditions in a specific board. The evaluation should only be used in the internal work of the board.

It is suitable for the chairman of the board to be responsible for processing the results so that it can provide the basis for discussions and improvements. Evaluation of the chairman is normally done by the owner(s), but may also be part of the work of the board.

5.2 Evaluating the work of the managing director

Evaluating the managing director is one of the board's fundamental duties. It is suitable for the chairman to compile the opinion of the board (Appendix 4) and to convey to the managing director a nuanced picture of the strengths and weaknesses identified in this evaluation.

6. Board committees

Internationally, in recent years one of the most important trends in the work of boards of directors has been the delegation of in-depth work to board committees. The larger the board, the more necessary it may be to organise its work through committees. In the United States, most stock exchanges require the establishment of an audit committee before registering a company's shares. In Sweden today, the compensation committee is the most commonly occurring pure board committee. The board does not surrender its duties to the committees it has appointed. Instead it delegates these tasks, the results are reported back, and it has full responsibility.

6.1 The compensation committee

Decisions on the size of fees to directors of limited liability companies are made by their owners at the shareholders' meeting. To make decisions on the conditions of employment of the managing director, the chairman of the board should establish a compensation committee within the board. The compensation committee may also assist the managing director in setting the salaries of senior executives and other key personnel. Any bonus or option programmes are prepared by the compensation committee for board approval or the submission of proposals to the shareholders' meeting.

As for scale and conditions, the Swedish government has issued "Guidelines Concerning Employment Conditions for Persons in Executive and Comparable Positions at Government-Owned Companies" (Government Decision of 5 December 1996).

6.2 Audit committee

An audit committee strengthens the dialogue with the company's auditors and thereby creates greater clarity concerning observations affecting company management and controls.

The duties of the audit committee include aiding the owners of the company in selecting an auditor and continuously monitoring the independence of the auditor. The audit committee should formulate written rules of procedure for board approval. These rules should make clear the need for both formal and informal meetings with the auditor.

The members of the audit committee should have relevant financial expertise and a high level of integrity.

Appendix 1

Proposal on areas requiring board decisions

The board shall make decisions on matters that do not fall within day-to-day management. Unless otherwise decided, these matters include:

- starting up or shutting down operations on a large scale
- raise debt and pledging collateral in excess of x kronor
- acquisitions or divestments of, or mergers with, another company
- joint venture, sales, maintenance, rental, leasing and purchase agreements with a duration in excess of x years or with a value in excess of x kronor
- resolution of business- or personnel-related disputes that lower earnings by more than x kronor or risk a negative impact on the company's reputation
- new investments within the budget whose basic amount is in excess of x kronor, and all investments outside the budget
- expansion of personnel in excess of x persons
- start-ups of development projects with an estimated cost in excess of x kronor
- short- and long-term qualitative and quantitative targets for operations
- policy issues and deviations from established policies
- rolling strategic plans
- budget ceilings
- employment issues related to the managing director

Appendix 2

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Proposed form for collective evaluation of the board

Name

Fill in your opinion by marking an X over a figure on a scale of 1-5, where 1=not true at all and 5=very true.

To the extent you wish to nuance your opinion or comment, use the space for comments after each question.

1. The directors show integrity in their actions on the board. The working climate on the board allows room for critical thinking and questioning.

Comments:

2. The board functions well as a group, and this results in efficient board work.

Comments:

3. All areas of expertise that are relevant to the company are represented among the directors.

Comments:

4. There is no rivalry among the directors.

Comments:

5. Questions concerning the dialogue on the board

- 5.a All directors feel free to speak their mind without holding back their real opinion.

Comments:

- 5.b There is a continuous dialogue among the directors and between the board and the managing director.

Comments:

- 5.c The managing director feels that he/she can freely tell the board about risks, bad news or future events that may have an adverse impact on the company.

Comments:

- 5.d At board meetings, the opportunities to pursue an open discussion are such that directors can learn from each other.

Comments:

6. On the whole, the board uses its most valuable resource - time - in a good way.

Comments:

Appendix 3

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Proposed form for evaluating individual directors

Evaluator's name

Name of person being evaluated

Fill in your opinion by marking an X over a figure on a scale of 1-5, where 1=not true at all and 5=very true.

To the extent you wish to nuance your opinion or comment, use the space for comments after each question.

1. He/she has a good knowledge of the company's operations, organisation and culture. 1 2 3 4 5

Comments:

2. He/she has a good understanding of the area in which the company is active. 1 2 3 4 5

Comments:

3. He/she comes to board meetings well prepared. 1 2 3 4 5

Comments:

4. He/she uses personal knowledge and experience to bring fresh impulses to the board and management (makes concrete contributions). 1 2 3 4 5

Comments:

5. He/she is happy to make his/her personal contacts at other companies, in the government and at other institutions available to the company.

Comments:

1 2 3 4 5

6. His/her participation helps create a good team spirit.

Comments:

1 2 3 4 5

7. His/her participation is not limited by conflicts of interest.

Comments:

1 2 3 4 5

8. His/her contributions to discussions raise the quality of decisions on the board, and help generate greater value in the company.

Comments:

1 2 3 4 5

9. He/she generally displays good judgement.

Comments:

1 2 3 4 5

10. He/she shows genuine commitment to the role of board member in the company.

Comments:

1 2 3 4 5

Appendix 4

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Proposed form for evaluating the managing director**Overall task of the managing director**

Responsible for operational management of the company. Manages by shaping a vision of the company's future work. Develops strategic and operational plans aimed at achieving the objectives established for operations. Develops management functions and allocates resources. Acts as the primary spokesman for the company. Works with the board to develop the company's business policies.

Fill in your opinion by marking an X over a figure on a scale of 1-5, where 1=does not fulfil this task at all and 5=fulfils this task completely.

1. Leadership

1 2 3 4 5

In managing the company, the managing director establishes values that are understandable, that are consistently taken into account and that enjoy broad support among the employees.

Comments:

2. Strategic planning

1 2 3 4 5

The managing director is responsible for developing a long-term strategy and creating conditions for achieving targets that fulfil the demands of the owner(s). He/she is responsible for ensuring that the company makes progress towards its strategic objectives and obtains and allocates resources in order to achieve these.

Comments:

3. Financial results

1 2 3 4 5

The managing director establishes long- and short-term financial targets and is responsible for ensuring that the organisation works towards these. He/she is responsible for establishing internal control systems for monitoring risks and following up operations.

Comments:

4. Planning for successor

1 2 3 4 5

The managing director recruits persons into management who possess the competency to achieve established objectives, encourages and hones the skills of key individuals and plans for his/her own successor. He/she introduces key individuals to the board and evaluates their work.

Comments:

5. Personnel policy

1 2 3 4 5

The managing director takes steps to develop a good personnel policy, including programmes for recruitment, human resources development and internal company communication that encourage and motivate employees to work towards established objectives.

Comments:

6. External communications

1 2 3 4 5

The managing director is the foremost representative and spokesman of the company. He/she establishes a good relationship with shareholders and other interest groups.

Comments:

7. Relations with the board

1 2 3 4 5

The managing director maintains close contact with the board and supports its monitoring function by keeping the board continuously apprised of developments in the company.

Comments:
