SWEDISH
CORPORATE
GOVERNANCE BOARD

Annual report 2010

Contents

Foreword

This is the fifth time the Swedish Corporate Governance Board has published its annual report. During these five years, the report has become a forum for information and discussion regarding the development of Swedish corporate governance. Its publication in English also allows international actors to keep themselves updated on developments in Swedish corporate governance.

The year since the previous report has been characterised by a major revision of the Code, the second since the Code was launched in 2005. Even though the previous Revised Code had not been applicable to most companies for a full year, having been introduced on 1 July 2008, the Board found it necessary to conduct a second relatively thorough review of certain chapters of the Code. This was due partly to a recommendation on remuneration of directors in listed companies issued by the European Commission in April 2009, and partly to new legislation to implement certain company law directives issued by the EU.

This and the other work of the Board during the year is reported in Activity Report, which also includes a report on the mission of the Board and a discussion of key issues for 2010. The second section describes the board's annual follow up of how companies have applied the Code.

As in previous years, the third section includes articles on issues relevant to Swedish corporate governance by external contributors. Here you will find articles on gender balance on company boards, the role of the Stockholm Stock Exchange as a monitor of companies' application of the Code and whether there is a need for a specific stewardship code for institutional investors, a topic for lively international debate recently.

There is also an international perspective of the 8th European Corporate Governance Conference, hosted by the Board in conjunction with the Swedish EU Presidency in the second half of 2009. The authors of these contributions are entirely responsible for the views presented in these articles, and the opinions and values expressed are not necessarily shared by the Board.

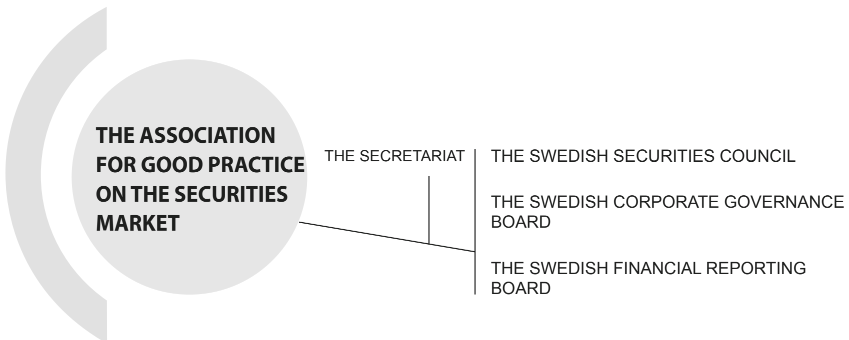
It is the hope of the Board that this annual report, as its predecessors in previous years, will contribute to increased knowledge and understanding of Swedish corporate governance.

Stockholm, June 2010

Hans Dalborg
Chair of the Board

I. ACTIVITY REPORT

This part of the annual report describes the work of the Board during 2009–2010 and discusses current issues regarding the Code and Swedish corporate governance in general.



The Mission of the Swedish Corporate Governance Board

The mission of the Swedish Corporate Governance Board is to promote the positive development of corporate governance in Swedish stock exchange listed companies, primarily by ensuring that Sweden continuously has a relevant, modern, effective and efficient corporate governance code, but also through activities designed to build confidence in the corporate governance of listed companies in the capital markets and among the general public. The Board is also to promote knowledge and understanding of Swedish corporate governance on the international capital market.

The Board is one of three bodies that constitute the Association for Generally Accepted Principles in the Securities Market, an association set up in 2005 to oversee self-regulation within the securities market. The other two bodies in the association are the Swedish Securities Council and the Swedish Financial Reporting Board. The members of the association are a number of organisations in the private corporate sector that are affected by these issues. See illustration above.[1)] The role of the Board is to determine norms for good corporate governance of listed companies in Sweden. It does this by ensuring that the Swedish Corporate Governance Code remains appropriate and relevant, not only in the Swedish context, but also internationally. The Board monitors and analyses how companies apply the Code through recurrent dialogue with its users in seminars, at working meetings and through structured surveys. It also monitors and analyses the general debate on the subject, changes in legislation and regulations concerning corporate governance, developments in other countries and academic research in the field. Based on this work and other relevant background information, the Board continuously considers the need for limited modifications to the Code or more general reviews of the entire Code.

The Board has no supervisory or adjudicative role regarding individual companies' application of the Code. Ensuring that companies apply the Code in accordance with stock exchange regulations is the responsibility of the respective exchanges.[2)] The role of evaluating and judging companies concerning their compliance or non-compliance with individual rules in the Code, however, belongs to the actors on the capital market. It is the company owners and their advisers who ultimately decide whether a company's application of the Code inspires confidence or not, and how that affects their view of the company's shares as an investment.

[1)] The Swedish Industry and Commerce Stock Exchange Committee, which was previously one of the bodies that constituted the Association, was integrated into the Swedish Corporate Governance Board in May 2009. More information can be found on the websites of the Board and the Association.
[2)] How NASDAQ OMX Stockholm fulfils this obligation is described in a separate article later in this annual report, see page 22.

The Work of the Board during the Year

The composition of the Board remained largely unchanged since the previous year. The Chair was Hans Dalborg, Deputy Chair was Lars Otterbeck and other continuing members were Lars-Erik Forsgårdh, Kerstin Hessius, Marianne Nilsson, Marianne Nivert, Michael Treschow, Lars Träff and Anders Ullberg, along with Executive Director Per Lekvall. Leif Lindberg left the Board at the parent organisation's annual general meeting in May 2009 and was replaced by Carola Lemne. Lars Thalén continued to act as a consultant and adviser on information issues and Björn Kristiansson acted as a consultant and adviser on corporate law.

The Board held eight minuted meetings during the year. Additionally, discussion and consultation between all or parts of the Board have taken place by e-mail and telephone when required. The Board's work during the year is summarised below.

Follow up of Code application

One of the main tasks of the Board is to monitor and analyse how companies apply the Code in order to ascertain whether any modifications to the Code should be considered. The Board's main instrument for this is its examination of Code companies' corporate governance reports, which it has carried out every year since the original version of the Code was introduced in 2005. This analysis was particularly interesting in 2009, as this was the first full reporting year since the Revised Code was introduced on 1 July 2008, which meant that the Code was broadened to cover all Swedish listed companies. The results of the latest analysis can be found on page 10 of this annual report.

A separate survey of how Swedish nomination committees work will be conducted in 2010. This survey is discussed further in the section entitled "Key issues for 2010" below. The results of the survey are expected in September 2010.

The Modified Code 2010

A revised version of the Swedish Code of Corporate Governance came into force on 1 July 2008. At the same time, mandatory application of the Code was extended to cover all Swedish companies whose shares are traded on a regulated market in Sweden. This was a major step in the development of modern Swedish corporate governance. The revised version of the Code was considerably shorter and simpler than the original, and it was also more in tune with the situation in other EU countries, where national corporate governance codes apply to all listed companies.

Although this revised version of the Code had not yet been in force for a full financial year, during the first half of 2009 the Board found it necessary to conduct a further review of the Code. This was due in part to certain changes in legislation to implement directives issued by the EU, and also to the recommendation on remuneration of directors in listed companies issued by the EU Commission on 29 April 2009. Additionally, in the autumn of the same year, NASDAQ OMX Stockholm removed rules on director independence and limitations on the number of company executives on company boards from its Rule Book for Issuers.

This work with the Code review characterised much of the Board's activites in the second half of 2009. It began on 24 June when the Board announced its intention to review the Code in view of the factors named above and invited interested parties to submit relevant views and suggestions. Very little such input was received. Instead, the Board conducted a number of hearings with representatives of companies, institutional investors and other actors during the autumn in order to collect opinions and suggestions to guide its work.

On 27 October, the Board presented its proposal for a modified Code to the market and invited feedback. Around fifteen opinions were submitted, including one from abroad. The opinions submitted were generally well founded and detailed, and they provided valuable input to the final version of the text. The final version was published on the Board's website and presented to the market in a press release on 23 December, and an accompanying debate article was published in the Swedish daily business and financial newspaper Dagens Industri.

The modified Code came into force on 1 February 2010, with interim rules which meant that many of the new rules did not need to be applied until 1 July 2010.

Broader rules on remuneration
The main basis for the need to review the Code was the European Commission's recommendation 2009/385/EC regarding remuneration of directors in listed companies.[3)] This recommendation was to be implemented by member states no later than 31 December 2009, after which the Commission's intention was to follow up how this had been done and then decide to what extent further measures might be required. The recommendation stated clearly that it could be implemented either through legislation, other mandatory regulation or self regulation following the comply or explain principle.

The Board's view was that problems regarding remuneration systems in Swedish listed companies had not contributed noticeably to the financial crisis, and that there was therefore no need to further regulate remuneration in the Code. At the same time, it was clear that the likely alternative to implementing the EU Commission's recommendation within the framework of self regulation was legislation, which the Board felt was a less good alternative for companies. Furthermore, although some of the guidelines could be interpreted as too far-reaching and detailed, and in certain cases poorly suited to Swedish circumstances, the Board felt that they were in line in general terms with existing norms and values in corporate Sweden and were already applied to a large extent by well-managed Swedish listed companies.

Against this background, the Board decided on 4 May to commence work on incorporating the EU Commission's guidelines into the Code in a way that could be regarded as justified from a corporate governance perspective while remaining in harmony with the existing Code and other Swedish conditions. Consultation with the Ministry of Justice revealed that the Government viewed a solution through self regulation positively and could abstain from legislating on the issues involved if an appropriate self regulation solution were imposed.

The work led to major changes to Chapter 9 of the Code, concerning remuneration of members of the board and executive management, as well as some additions to Chapter 10 on information on corporate governance. The most important changes compared with previously are:

- Remuneration is to be designed to ensure that the company has access to the competence the company needs and that the conditions have the intended effects for the company's operations. Variable remuneration is to be linked to predetermined and measurable performance criteria aimed at promoting the company's long term value creation.
- Variable remuneration paid in cash is to be subject to predetermined limits. The board is to consider two main conditions for such remuneration:
  - that payment of a certain proportion of the remuneration be dependent on whether the performance on which compensation is based is sustainable over time,
  - that the company is able to reclaim components of remuneration that have been paid on the basis of information which later proves to be manifestly misstated.
- Share and share-price related incentive programmes are to be designed with the aim of achieving increased alignment between the interests of the participating individual and the company's shareholders. Accumulation of a personal holding of shares in the company is to be promoted. The vesting period or the period from the commencement of an agreement to the date for acquisition of shares is to be no less than three years. Remuneration of non-executive board members is not to include share options.
- Fixed salary during a period of notice and any additional termination package are together not to exceed an amount equivalent to the individual's fixed salary for two years.
- The remuneration committee is to evaluate programmes for variable remuneration to the executive management and the application of the guidelines for

[3)] Not to be confused with recommendation 2009/384/EC, issued by the Commission on the same day, regarding remuneration policy in the financial sector, which was implemented in Sweden by instructions from Finansinspektionen, the Swedish Financial Supervisory Authority.

remuneration established by the shareholders' meeting. Appropriate knowledge and experience of executive remuneration issues is to exist among the members of the committee.
- Companies are to describe on their website all variable remuneration schemes for the board and management, not only share and share price related incentive programmes, as has previously been the case. The board is also to publish the results of its evaluation of the application of the guidelines for remuneration, most recently established by the previous annual general meeting, on the company's website no later than two weeks before each annual general meeting.

Interim rules state that the new rules regarding remuneration do not need to be applied before 1 July 2010. Companies are not required to renegotiate any agreements signed or variable remuneration programmes agreed before that date or to report any non-compliance contained therein.

Changes resulting from legislation on corporate governance reports etc.
New legislation to implement changes to the European Community's Fourth and Seventh Company Law Directives came into force on 1 March 2009[4]. The regulations relevant to the Code mean that listed companies are to issue an annual corporate governance report containing certain information, that this report is to state whether the company applies a corporate governance code and that they in such case are to report and explain any non-compliance according to the comply or explain principle.

As the Code is not to regulate what already exists in legislation, it needed to be adapted to take account of the new laws. This led to the following changes:

- The express requirement to produce a corporate governance report has been removed, along with the requirement to produce a report on internal controls, which is also covered by the new legislation. Instead, the Code refers to the legal stipulations, but with certain requirements beyond the minimum stipulated by the law. Additionally, the Code contains requirements regarding the information value of explanations of non-compliance.
- The requirement to publish corporate governance reports on the company's website has been extended to include the three most recent reports. Additionally, that part of the audit report which deals with the corporate governance report or the auditor's written statement on the corporate governance report, as required by the new legislation, is to be published on the website.

The new regulations do not need to be applied until the first financial year commencing after 29 February 2009. Accordingly, changes made to Code rules as a result of the legislation also apply from the same financial year. For companies whose financial year corresponds to the calendar year, this means that any non-compliance with the new Code rules need not be reported until the corporate governance report for financial year 2010.

Changes resulting from new legislation on audit committees etc.
On 1 July 2009, new legislation on the implementation of the European Community's Eighth Company Law Directive came into force. This directive includes regulations regarding audit committees in listed companies. As equivalent rules already existed in the Swedish Code, this legislation also meant that some modification of the Code was required. The main changes resulting from this legislation were:

- The removal of the whole of the previous Chapter 10, The audit committee, financial reporting and internal controls. Instead, the rules from this chapter considered necessary to retain have been included in Chapter 7, Board procedures, namely:
  – Rules on the size and composition of audit committees and on committee members' independence,

[4] Chapter 6, sections 6–9 of the Annual Accounts Act and Chapter 9, section 31, paragraph 3 of the Companies Act.

– The requirement for companies that do not have a separate internal audit function to evaluate the need for such a function annually and to justify their decision in the company's corporate governance report,
– The requirement that the board is to meet the company's auditor without the chief executive officer present at least once a year,
– The requirement that the company's six- or nine-month report is to be reviewed by the auditor.
- The text which formed the introduction to previous Chapter 10 has now been included as a rule in Chapter 7 of the modified Code.

These changes came into force on 1 February 2010. Non-compliance with rules in Chapter 10 that have been changed or removed does not need to be reported or explained in corporate governance reports for 2009.

Changes resulting from NASDAQ OMX Stockholm's removal of rules on director independence
On 1 October 2009, rules on director independence and limitations to the number of members of the executive management on company boards were removed from NASDAQ OMX Stockholm's Rule Book for Issuers. These requirements were in the original Code, but the specific criteria for assessing director independence, (which were based on EU recommendations issued in 2004), were removed from the Revised Code published in 2008 in favour of a reference to applicable stock exchange regulations.

The Code's previous guidance criteria for assessing director independence have now been reintroduced, with the exception of the "12 years rule"[5]. Additionally, the NASDAQ OMX Stockholm criteria for assessing director independence from major shareholders, which were more detailed than the equivalent criteria in the original Code, have been integrated into the Code after some minor adjustments.

The Code now further emphasises that a director's independence is to be determined by a general assessment of all relevant circumstances, and that the criteria stipulated in the Code are to be regarded as guidelines rather than defining factors. Where circumstances may give cause to question the individual's independence according the rules of the Code, the nomination committee is to justify its position regarding candidates' independence on the company's website prior to elections to the board.

For companies listed on NASDAQ OMX Stockholm, the new wording of these rules is to be applied with regard to individuals who are elected or re-elected after 1 July 2010. This means that the new wording does not need to apply at annual general meetings held in spring 2010. For companies listed on NGM Equity, the rules published in the Revised Code of 2008 apply, as NGM Equity listing regulations still contain rules concerning director independence and limitations to the number of members of the executive management on company boards.

8th European Corporate Governance Conference

On 2–3 December 2009, the Swedish Corporate Governance Board, in co-operation with the European Corporate Governance Institute (ECGI) and with the support of its parent association and a number of Swedish companies and organisations, organised an international conference in Stockholm on current issues of European corporate governance under the overall theme Beyond the Crisis – New Challenges for Corporate Governance. The conference was arranged within the framework of the Swedish EU Presidency in the second half of 2009. Similar conferences have been arranged by a number of EU Presidencies in the past five years, and they have become an important forum for discussion and debate on the development of corporate governance within the Union. The Board considered it essential for such an event to be organised also in conjunction with the Swedish Presidency.

[5] This rule stated that a director who has been a member of the board for more than twelve years should not be considered independent.

The conference attracted a lot of interest, also internationally, and around 450 delegates from the majority of the Union's member states and other parts of the world were registered. It began with a well attended welcome reception on the evening of 2 December and continued on 3 December with three sessions, each of which was devoted to a topical corporate governance issue.

Session 1: *The Future of Corporate Governance Regulation in the European Union.*
This session saw the first presentation of a report on a detailed study, ordered by the European Commission, of how corporate governance codes have been implemented in the Member States and how they work. The presentation was followed by a discussion of the study's implications for continued regulation of corporate governance issues within the Union.

Session 2: *Remuneration – A Case for Regulation?*
Against the background of the recent intensive international debate on executive pay, not just regarding the financial sector, but also in listed companies in general, this session did not focus on how increased regulation in this area should be designed. Instead, it focused on the more fundamental issue of whether and to what extent such regulation would at all be justified and constructive.

Session 3: *Government in Corporate Governance*
The third session discussed the likely short and long term consequences of the fact that governments in many countries have felt obliged to go in as owners of private companies in the wake of the economic crisis, chiefly in the financial sector, but also in other industries. The discussion also focused on how such ownership is to be managed from a governance perspective and what exit strategies for state ownership might be pursued.

The conference was a great success, evidenced by the amount of positive feedback the Board received from delegates from many different countries. The Board would like to take this opportunity to reiterate its thanks to the companies and organisations whose generous contributions made the conference possible. The names of these companies and organisations, as well as more details about the conference, can be found on the Board's website.

International work

The Board also continued its work to promote increased knowledge and understanding of Swedish corporate governance internationally in other contexts. This included information meetings with international institutional investors and their advisers, as well as participation in a number of meetings and conferences on corporate governance issues within the EU and the OECD.

As described in last year's Annual Report, the Board published a document together with its equivalent organisations in the other Nordic countries entitled Corporate Governance in the Nordic Countries. The purpose of this publication was to inform the international market about the particular Nordic model of corporate governance. The publication has aroused much interest and indubitably contributed to improved knowledge about Nordic corporate governance among international investors. The document can be downloaded or ordered free of charge from the Board's website.

The significant increase in international interest in Swedish and Nordic corporate governance is a sign that the many years spent on international work by the Board have paid off. This is particularly true of the uniquely Swedish model of nomination committees appointed by and consisting predominantly of shareholders.[6)] One example of this interest is the publication by the British think tank Tomorrow's Company of a detailed study of Swedish nomination committees and their relevance to the British corporate governance system: Tomorrow's Corporate Governance: Bridging the UK engagement gap through Swedish-style nomination committees. The study concludes that the Swedish system could

[6)] A similar model is also used in Norway.

contribute to increased owner involvement from British institutional investors and suggests that the system be tested and evaluated by a number of listed companies as a first step. The report can be ordered via a link from the Board's website to Tomorrow's Company.

Sweden is also one of five countries, (along with Brazil, Japan, Portugal and the United Kingdom), that form a peer review group set up by the OECD to examine the role of boards in decisions regarding incentive systems and risk management in countries with different corporate governance systems with regard to legislation, generally accepted practices and cultural factors. The study is the first step in a broader survey programme called Roadmap for Corporate Governance Peer Reviews, run by the OECD's Steering Group on Corporate Governance. A report on this first study is expected in autumn 2010.

Key issues for 2010

Follow-up of the modified Code

One of the main tasks of the Board in 2010 is to follow up how the modified Code is received and applied by the companies. Most of the comments received so far, mostly regarding the expanded rules on remuneration, have been positive and shown appreciation for the way the Board has balanced the need to implement the EU recommendation on the one hand and the importance of harmonising changes with the Swedish context and the principle-based structure of the Swedish Code on the other. As outlined above, the new rules in this area do not need to be applied until 1 July 2010, so they will not be tested properly until the autumn.

The Board will also watch the European Commission's follow-up of the implementation of its recommendations in the member states with great interest. A report on this is expected in June 2010.

Survey of the work and procedures of nomination committees

As previously mentioned, the Swedish model of nomination committees appointed by and consisting largely of shareholders is unique. In most countries, the equivalent bodies are sub-committees of the board of directors. The Swedish system can be explained to a certain extent by a background of more positive attitudes to shareholder power in Swedish corporate governance than in many other countries. As noted above, there has been increased international interest in the Swedish model in recent years.

The Board's opinion is that the Swedish model has worked well so far. There has, however, been criticism, for example of the composition of nomination committees with regard to relevant competences, committee members' practical ability to acquire information and understanding of the company's strategic position and direction, and the risk that the committees are used as a forum for discussing other ownership issues than those intended. The Board has analysed and reported on how nomination committees have been appointed and their composition every year. In autumn 2007, the board also conducted interviews with a number of nomination committee members to learn about their experiences and opinions on the system. This survey covered nomination committees appointed at 2006 annual general meetings, which for most companies was the first such meeting following the introduction of the Code, so the work of many of the committees was still taking shape. It was also more of an opinion survey on nomination committees as such than a specific examination of the methods and quality of their work in individual cases.

The Board has therefore decided that the time is right for a larger, more thorough study of how Swedish nomination committees function in practice. The aim is to acquire a more detailed and concrete picture of this than previously in order to provide a better basis for continued discussion of the pros and cons of the Swedish model. A report on the new survey is expected in September 2010.

The Code Barometer, autumn 2010

The Code Barometer is a regular survey of confidence in the governance of Swedish listed companies among the Swedish general public and on the capital market. Its aim is to measure how the Code is fulfilling its general goal of contributing to improved corporate governance in Sweden and thereby to greater confidence in stock exchange listed companies.

The survey is conducted in October and November every two years. Three surveys have been carried out so far, in 2005, 2006 and 2008. The Board intends to continue this survey series in autumn 2010.

II. COMPANIES' APPLICATION OF THE CODE IN 2009

The Board conducts regular surveys and analysis in order to monitor how the Code is applied and to evaluate its functionality and effects on Swedish corporate governance. As in previous years, the Board commissioned a study of each Code company's application of the Code based on annual reports, corporate governance reports and other relevant material. This year's survey, like those previously conducted, was carried out by Nordic Investor Services. The results are summarised below.

Executive summary

This year's follow-up survey of how companies have applied the Code is the second since the revised Code was introduced in 2008 and the first to examine the application of this Code during a full financial year. Last year's report expressed fear that the unexpectedly positive results, including fewer instances of non-compliance than in previous years despite the large number of new Code companies, might be of a temporary nature due to uncertainty about how to apply the Code during only the second half of 2008. This has proved not to be the case. Instead, this year's survey shows results similar to last year's, which implies that the new companies' application of the Code has stabilised at a level close to that achieved by the original Code companies.

In general, companies seem to have a high level of ambition when it comes to applying the Code. All but one have submitted a corporate governance report in accordance with the Code, and with very few exceptions, these contained a separate section on internal controls and risk management. A new development since last year is that twelve companies chose to publish their corporate governance reports on their websites only, which is not in breach of the Code providing that a printed version of the report is attached to the annual report when it is distributed, e.g. at the company's annual general meeting.

The rate of non-compliance with individual Code rules remained almost identical to previous years, and 85 per cent of companies reported no more than one incidence of non-compliance, compared with 86 per cent in the previous survey. The average number of deviations from the Code by companies reporting at least one incidence of non-compliance was 1.4, compared with 1.5 in the previous year. At the same time, companies showed the same kind of flexibility towards individual rules of the Code as previously, with precisely half of the companies reporting at least one incidence of non-compliance, compared with last year's figure of 46 per cent.

The areas in which most companies have deviated from the Code rules are largely similar to previous years. The rule with the most instances of non-compliance was Code rule 2.4, concerning the composition of nomination committees. The most prevalent forms of non-compliance with this rule were that the company chair or another member of the board chaired the nomination committee or that more than one board member on the nomination committee was not independent of major shareholders. A common explanation for both of these situations is that the individuals concerned were major shareholders and therefore had a legitimate role to play as members of the nomination committee.

Rule 10.1, concerning audit committees, accounted for the next largest number of deviations. In most cases, this concerns small boards in which it was not felt that there was justification for having more than two members on such a committee, but there were also a number of cases in which the whole board performed the tasks of the audit committee, disregarding the Code's requirement that members of the executive management are not to participate in this work.

As in previous years, the least satisfactory aspect of companies' application of the Code was the information value of explanations of non-compliance with individual rules. The clarity and relevance of explanations of non-compliance is crucial to the functioning of corporate governance codes based on the principle of comply or explain. Assessment of such explanations necessarily involves a large element of subjectivity, but as the Board's evaluation has followed the same format and criteria each year, it is reasonable to assume that any observed trends are reasonably reliable. The Board's analysis of explanations found that almost a third of these could be regarded as having insufficient information value, compared with 29 per cent in the previous year and 27 per cent in the year before. Improvement in this area appears to be the most important issue for continued development of the functionality of the Code. As in previous years, a special survey on how companies applied Code rules on nomination committees was conducted. The results of this survey were consistent with those of previous years and show that almost all listed companies apply the specifically Swedish model for nominating board members stipulated in the Code, i.e. nomination committees appointed by the shareholders and consisting largely of their representatives, and that this system functions well to all intents and purposes. It is noticeable, however, that non-Swedish shareholders are underrepresented on Swedish nomination committees in relation to their holdings on the Swedish capital market.

Aims and methods

The aim of analysing how companies apply the Code is to provide information in order to assess how well the Code works in practice, and to see whether there are aspects of the Code that companies find irrelevant, difficult to apply or in some other way unsatisfactory. The results provide a basis for the continued improvement of the Code.

The main basis for the study is companies' own descriptions of how they have applied the Code in their corporate governance reports. No attempt is made to ensure that the information provided by the companies is truthful and accurate.

The target group for the study was the 261 companies that were obliged to apply the Code according to stock exchange regulations as of 31 December 2009. Of these, 236 were listed on NASDAQ OMX Stockholm and 25 on NGM Equity.[1] Of these, eight OMX companies and one NGM company were omitted, either because their fiscal year does not follow the calendar year or because they had not published their annual report for 2009 by the survey deadline of 30 April 2010. This meant that the number of companies actually included in the survey was 252, of which 228 were listed on NASDAQ OMX Stockholm and 24 on NGM Equity. See Table 1 below.

Table 1. Number of surveyed companies

	2009		2008		2007		2006		2005	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
NASDAQ OMX Stockholm	236	90%	246	88%	106	92%	91	90%	74	95%
NGM Equity	25	10%	32	12%	0	0%	0	0%	0	0%
Total target group	261	100%	278	100%	115	100%	101	100%	78	100%
Excluded [*]	9	3%	32	12%	9	8%	10	10%	4	5%
Total companies surveyed	252	97%	246	88%	106	92%	91	90%	74	95%

[*] Companies excluded due to fiscal year, annual report / corporate governance report not available or company no longer listed.

[1] Swedish companies whose shares are traded on a regulated market in Sweden are obliged to apply the Code through their general obligation to follow General Practice on the Securities Market. According to current rules, non-Swedish companies listed on these exchanges have no such obligation.

Companies' reports on corporate governance

All companies that apply the Code are to produce a corporate governance report in conjunction with their annual accounts. [2] The report is to describe the company's corporate governance and how it has applied the Code. Any non-compliance with individual rules is to be reported, along with a presentation of the solution the company has chosen instead and an explanation of why.

All but one of the companies surveyed submitted a formal corporate governance report. This is a marked improvement on the previous year, when fourteen companies failed to produce such a report. See Table 2 below. In the light of this year's result, the high figure for 2008 appears to be a temporary deviation from an otherwise consistent and almost total adherence to this rule since the Code was introduced. One explanation for the 2008 figure may be that there was a degree of uncertainty among companies as to whether the extension of the Code on 1 July 2008 applied to the whole of reporting year 2008. Judging by the comments in the annual report of the one company not to comply with this rule in 2009, it is likely that there was a similar misunderstanding this year too.

As shown in Table 2 below, twelve companies chose to publish their corporate governance reports on their websites only, something that has not occurred in previous years. This does not contravene the rules of the Code, providing that a printed copy of the report is to be found together with the annual report when it is distributed, e.g. at the annual general meeting.

The corporate governance report is also to contain a description of the key elements of the company's internal controls and risk management concerning financial reporting. An internal controls report was submitted by 244 of the 252 surveyed companies, which is 97 per cent. See Table 3 below. This percentage is in line with previous years, with the exception of 2008, probably for the same reason as for the failure of some companies to produce corporate governance reports for 2008. The internal controls reports vary in their scope, from short summaries within the corporate governance report to more extensive separate reports. Of the eight companies that did not produce an internal controls report, six are listed on NASDAQ OMX Stockholm and two on NGM Equity.

Table 2. Has the company issued a corporate governance report?

	Number					Percentage				
	2009	2008	2007	2006	2005	2009	2008	2007	2006	2005
Yes	251	232	104	91	74	100%	94%	98%	100%	100%
No	1	14	2	0	0	0%	6%	2%	0%	0%
Of Yes answers – only on the company website	12	0	0	0	0	5%	0%	0%	0%	0%
Total companies surveyed	252	246	106	91	74	100%	100%	100%	100%	100%

Table 3. Is there a separate section on internal controls and risk management?

	Number					Percentage				
	2009	2008	2007	2006	2005	2009	2008	2007	2006	2005
Yes	244	215	101	90	74	97%	87%	95%	99%	100%
No	8	31	5	1	0	3%	13%	5%	1%	0%
Total	252	246	106	91	74	100%	100%	100%	100%	100%

[2] This is now required by law (Chapter 6, Sections 6-9 of the Annual Accounts Act). The new legislation applies from the first financial year commencing after 28 February 2009, which means that companies whose fiscal year is the same as the calendar year are obliged by law to produce a report for the first time in connection with the annual report for 2010. Hence the present report concerns the requirements for annual reports as they were stated in the Code applicable for the financial year 2009.

The Code does not require that the corporate governance report be reviewed by the company's auditors, but the report should state whether this has been done or not. Of the 252 surveyed reports, 232 state clearly whether the report has been reviewed by the auditor or not, while the remaining twenty provide no information on this matter. Auditor review occurred in twenty companies, which amounts to 8 per cent of the reports surveyed, although written remarks from the auditor reviews were only found in six cases.

How companies applied the rules of the Code

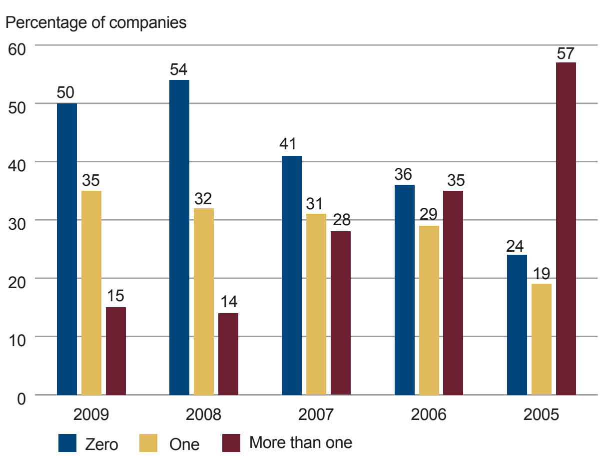
Reported non-compliance

Companies that apply the Code are not obliged to comply with every rule contained in it, but are free to choose alternative solutions provided each case of non-compliance is clearly described and justified. It is not the aim of the Board that as many companies as possible comply with every rule in the Code. On the contrary, the Board regards it as a key principle that the Code be applied with the flexibility afforded by the principle of comply or explain. Otherwise, the Code runs the risk of becoming mandatory regulation, thereby losing its role as a set of norms for good corporate governance at a higher level of ambition than the minimums stipulated by legislation. It is the Board's belief that better corporate governance can in certain cases be achieved through other solutions than those specified by the Code.

Diagram 1 shows the proportion of surveyed companies that have reported instances of non-compliance in the five years that the Code has existed. The proportion of companies that reported more than one instance of non-compliance fell over the years to a level of fifteen per cent in 2008, meaning that 85 per cent of companies reported no more than one deviation from the Code rules. That trend has now been halted, and the figures for 2009 are almost identical to those of a year earlier, apart from a marginal change in the proportion of companies reporting one deviation or none at all.

A total of 182 deviations from Code rules were reported in 2009, which gave an average of 1.4 instances of non-compliance per company that has reported at least one deviation. The equivalent figure for 2008 was 1.5 , while the average for 2005–2007 was 2.1. The average figure for non-compliance thus continued to fall in 2009 as the number of Code companies grew from around 100 to around 250. Even though the Board does not strive to reduce non-compliance to zero, these results reflect positively on the many new, smaller Code companies that were obliged to apply the Code for the first time in 2008, as well as on the revised Code that was introduced that year.

Diagram 1. Companies per number of instances of non-compliance



2009: 252 companies 2005–2007: Average of 89 companies 2008: 246 companies

Which rules do companies not comply with?

Diagram 2 shows the distribution of reported non-compliance among the rules of the Code in 2008 and 2009. The numbers along the horizontal axis correspond to the Code rule numbers. The five rules with which the most companies report non-compliance are commented on in brief below.

As in previous years, the rule with the most instances of non-compliance was Code rule 2.4, concerning company chairs and members of the board on nomination committees. The most common form of non-compliance with this rule was that the chair of the board, or in some cases another member of the board, was the chair of the nomination committee. A common explanation for this was that the person concerned was deemed to be the most competent and/or that a major shareholder was considered best suited to lead the work of the committee. In some cases, more than one of several members of the board who were on the committee were not independent of major shareholders, and in a small number of companies, members of the board formed a majority on the nomination committee. Non-compliance with this rule is most common in companies with strong concentration of ownership, often with the general explanation that it is otherwise difficult or impossible for a private individual to combine the roles of major shareholder and active owner through participation on the board and on the nomination committee.

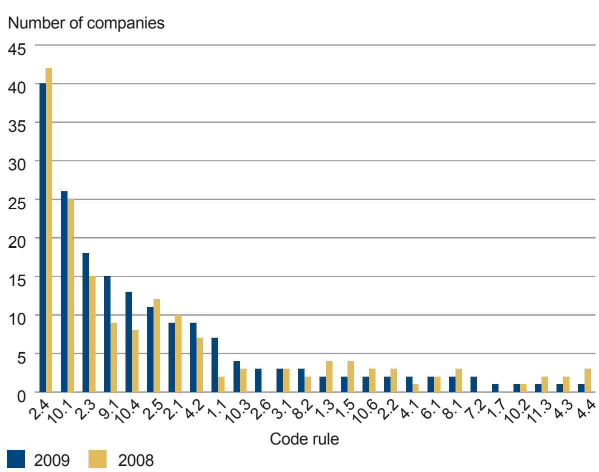
Rule 10.1, concerning audit committees, accounted for the next largest number of deviations. The most common alternative solution was to set up an audit committee with just two members, (and in one case, just one member), usually because the board is small and/or because it is considered that this is the most efficient way to carry out the tasks of the audit committee, (which does not require an explanation per se according to the Code), without paying heed to the Code rule which states that the chief executive officer or any other member of the board who is a member of the executive management is not to participate in the work with these issues. These forms of non-compliance are particularly common in smaller companies.

Rule 2.3 concerns the size and composition of nomination committees, primarily committee members' independence. Eighteen companies reported non-compliance with this rule, usually because one or more members of the company's executive management were members of the nomination committee. The explanation given for this is that they are also major shareholders in the company. In a small number of cases, the nomination committee consisted entirely of representatives of the largest shareholders, so that none of the members fulfilled the Code requirement of independence in relation to the largest shareholder in terms of voting rights.

Seventeen companies reported non-compliance with rule 9.1, regarding the establishment and composition of remuneration committees. In most cases, this involved the chief executive officer or another person that could not be considered independent in relation to the company and its executive management being on the committee. Also here, the most common explanation is that these individuals' competence or holding in the company justified their membership of the committee.

The Code rule with the fifth greatest number of deviations, rule 10.4, concerns auditor review of the company's six- or nine-month report. Thirteen companies reported non-compliance with this rule, usually with the explanation that the cost of such a review was not deemed justifiable given the size and complexity of the company and/or the quality of the company's internal controls. Some companies referred to consultation with their external auditor as the basis for their decision.

Diagram 2. Antal avvikelser per regel 2008–2009



Explanations of non-compliance
The standard of explanations of non-compliance is crucial to the success of a corporate governance code based on the principle of comply or explain. The quality of such explanations is for the reports' target groups to assess, primarily the companies' owners and other capital market actors. However, in order to be useful as a basis for such evaluation, the explanations must be sufficiently substantive, informative and founded in the specific circumstances of the company concerned. Vague arguments and general statements, without any real connection to the company's situation, have little information value for the market.

Last year's survey report showed substantial flaws in the quality of this information, both with regard to actually providing explanations for reported non-compliance and the information value of the explanations given. This also seems to be a problem for this kind of Code internationally. A major study of the implementation of corporate governance codes among EU Member States conducted in 2009 concluded that the lack of explanations of reported non-compliance or their vagueness is one of the main remaining weaknesses of this form of corporate governance regulation, and that improvements in this respect are a high priority in its continued development. [3)]

Of the 182 instances of non-compliance reported in corporate governance reports for 2009, 163 had explanations provided, while the remaining 19 instances lack any explanation. In order to improve the information value of explanations, the revised Code introduced a requirement that companies not only justify all non-compliance, but also describe the solutions they have chosen instead. Sixteen reported instances of non-compliance lack any such explanation. A number of these omissions overlap, but altogether there were 30 cases of non-compliance that were not explained sufficiently as required by the Code, which is 16 per cent of all reported instances. This was an improvement on previous years, but still means that a significant number of companies have not applied the Code correctly and have therefore not fulfilled the stock exchange requirement to follow Good Practice on the Securities Market.

As in previous years, an attempt has been made to assess the quality of explanations offered. This necessarily involves a large element of subjectivity, but as the evaluation has followed the same format and criteria each year, it is reasonable to assume that any observed trends are reasonably reliable.

The report on last year's survey showed that the positive trend seen in this area since the Code was introduced was broken in 2008, which saw a return to the levels of the first year of the Code, see Table 4. It was assumed that a likely explanation for this was that the many companies applying the Code for the first time in 2008 had not acquired the experience and routines needed for this kind of reporting, which meant that the start of a new trend of improved quality of non-compliance explanations could be expected n the following years. This has not been the case, at least not yet. Table 4 shows that the

Table 4. The information value of explanations of non-compliance

	Number of companies					Percentage				
	2009	2008	2007	2006	2005	2009	2008	2007	2006	2005
Good	50	49	54	48	30	27%	29%	57%	53%	40%
Acceptable	79	75	30	22	23	43%	44%	28%	25%	32%
None/Insufficient [*)]	53	47	16	21	21	29%	27%	15%	23%	28%
	182	171	106	91	74	100%	100%	100%	100%	100%

[*)] This category includes the cases of no or insufficient explanation outlined above.

[3)] Study on Monitoring and Enforcement Practices in Corporate Governance in the Member States, conducted for the European Commission by a consortium led by Risk Metrics Group, pages 83–85 and 167 ff. See http://ec.europa.eu/internal_market/company/ecgforum/studies_en.htm.

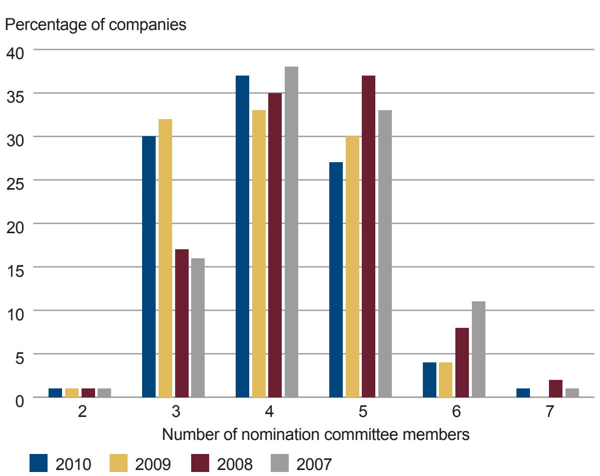
proportions regarding different degrees of quality of explanations remained largely the same as in the previous year. There is therefore still considerable room for improvement in the future.

Nomination committees

As in previous years, a special survey of the appointment and composition of nomination committees for board elections at 2010 annual general meetings has been conducted. Decisions regarding these committees were normally made at the annual general meetings in 2009, which means that the data for this survey comes from notices of meetings, minutes and other information from these annual general meetings available on company websites, as well as annual reports and corporate governance reports for 2009.

The survey was designed to cover the same 261 companies as the survey of corporate governance reports. Nine companies could not be included in the survey: three due to a lack of information or withdrawal from the stock exchange and six companies that had not appointed nomination committees. (The latter group comprised 2 per cent of all Code companies.) As a result, 252 nomination committees were analysed, of which 228 were listed on NASDAQ OMX Stockholm and 24 on NGM Equity.

Diagram 3. Size of nomination committees for annual general meetings 2007–2010



Appointment of nomination committees

According to the Code, companies can choose one of two methods for appointing nomination committees. Committees can either be appointed directly at the annual general meeting or the meeting can decide upon a procedure for later appointment to the committee. In some cases, other methods have been used which are not included in the Code's recommendations, e.g. that an individual, often the chair of the board or a major shareholder, is appointed to form the nomination committee as he or she sees fit.

As Table 5 shows, the vast majority have chosen the procedural method each year since the Code was introduced, with four out of five companies preferring this method in the first three years of the Code and fewer than 20 per cent of companies opting for the AGM-appointment method. The 2008 results showed a change in this respect, with a significant increase in the proportion of AGM-appointed nomination committees to almost 30 per cent. The results of the latest survey show a partial return to the previous pattern, with three out of four nomination committees appointed using the procedural method. At the same time, other methods have declined successively, and 99 per cent of all nomination committees are now appointed using one of the two main methods. Still there is some uncertainty about this figure as five companies did not report their methods for appointing nomination committees and four failed to do so this year.

Size of nomination committees

Diagram 3 shows the size of nomination committees each year. The vast majority of nomination committees have had 3–5 members, with a smaller number having 6–7 members. There have also been a small number of committees with just two members. These do not fulfil the requirements of the Code, which stipulates a minimum of three, but this does not necessarily mean that these committees cannot formally perform the duties of a nomination committee.

The average size of nomination committees has fallen significantly since 2009. This is most likely linked to the expansion of the Code's application in 2008, when the committees surveyed in 2009 were appointed. Many of the new Code companies appointed smaller nomination committees than those companies who have applied the Code since its introduction in 2005. Almost a third of nomination committees now consist of three members, which is the minimum specified in the Code, while only three per cent, (eleven companies), have more than five members. The average size of nomination committees has decreased slightly from 4.2 in 2007–2008 to 4.05 last year and 4.06 in the latest survey.

Composition of nomination committees

A total of 1,015 members served on nomination committees for the 2010 annual general meetings, compared with 971 on the 2009 nomination committees and 452 and 425 respectively in the previous two years. Obviously this does not mean the same number of individual people, as many are members of more than one nomination committee, but it certainly indicates that the extension of the Code in 2008 led to a substantial increase in the number of people serving on nomination committees of stock exchange listed companies

Around a quarter of all members of nomination committees were also members of the respective company's board of directors, usually the chair of the board. This figure has remained remarkably consistent since the introduction of the Code. Along with the information in Diagram 3, this means that the typical nomination committee consists of the chair of the board and two to

Table 5. Methods for appointing nomination committees for AGMs 2006–2010

	Number of companies					Percentage				
	2010	2009	2008	2007	2006	2010	2009	2008	2007	2006
Appointment at AGM	58	65	18	18	19	23%	28%	17%	17%	19%
Procedure for later appointment	187	165	81	85	77	76%	70%	78%	78%	77%
Other method	3	5	5	6	4	1%	2%	5%	6%	4%
Total companies surveyed	248*)	235*)	104	109	100	100%	100%	100%	100%	100%

*) No data available on the appointment of nomination committees for five companies in 2009 and four companies in 2010.

Table 6. Number of board members on nomination committees for AGMs 2010

Number of board members	Number of companies	Percentage of companies
0	44	17%
1	148	59%
2	51	20%
3	9	4%
Total	252	100%

Table 7. Gender ratios on nomination committees for AGMs 2007–2010

	2010		2009		2008		2007	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Men	899	89%	854	88%	384	85%	367	86%
Women	116	11%	117	12%	68	15%	58	14%
Total	1,015	100%	971	100%	452	100%	425	100%

four other members, often representing major shareholders in the company.

It is important to bear in mind that the Code does not stipulate that no more than one member of the board is to be on the nomination committee, only that board members are not to form a majority. Table 6 illustrates the frequency of different numbers of board members (including the chair) on nomination committees of all surveyed companies. It shows that 17 per cent of surveyed companies, (compared with 16 per cent last year), had no member of the board of directors on their nomination committee, and that 79 per cent, (compared with 80 per cent last year), had one or two board members on the committee. In both of the last two years, only 4 per cent of the nomination committees contained more than two members of the company's board.

There is still a pronounced gender imbalance on nomination committees, and the percentage of women on the nomination committees of surveyed companies has actually fallen from 14–15 per cent for committees for the 2007–2008 annual general meetings to 12 per cent in 2009 and 11 per cent in 2010. It would be easy to assume that this is because so many smaller companies are obliged to apply the Code since 2008, but last year's survey did not find evidence to support this assumption. The real reasons for the negative trend are not obvious from the results of this survey.

Shareholder representation on nomination committees

Table 8 shows shareholder representation among the members of the nomination committees surveyed. This has been particularly difficult to analyse in the last two years' surveys since the code was extended to cover a large number of smaller companies, as it has proved difficult to acquire reliable data on this issue given the time and budget available for the survey. This means that the category "Other" is a relatively large group in these years' surveys. There is, however, reason to believe that a significant proportion of the people in this category can be regarded as representatives of Swedish, probably often larger, private shareholders.

Based on this assumption, the figures indicate that around two thirds of nomination committee members represent Swedish ownership interests, while just under a tenth represent foreign shareholders. The latter figure can be compared with the proportion of foreign shareholders in NASDAQ OMX Stockholm listed companies, which is over a third. Hence foreign shareholders are greatly underrepresented on Swedish nomination committees compared with their level of ownership of Swedish listed companies.

The ratios shown in Table 8 have been remarkably consistent since the Code was introduced. In total, around three quarters of the surveyed nomination committee members represent a shareholder interest, mostly Swedish institutional investors, while the remaining quarter comprises members of the board with no known link to any of the company's major shareholders. This illustrates once more the strong shareholder influence that often exists on Swedish nomination committees compared with those in other countries.

Table 8. Shareholder representation on nomination committees for AGMs 2007–2010

	2010		2009		2008		2007	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
Representative of Swedish shareholder	385	38%	379	39%	304	67%	261	61%
Representative of foreign shareholder	87	9%	89	9%	42	9%	48	11%
Member of the board	279	27%	254	26%	104	23%	105	25%
Other	264	26%	249	26%	2	<1%	11	3%
Total	1,015	100%	971	100%	452	100%	425	100%

III. PERSPECTIVES

The Swedish Corporate Governance Board's ambition is that its Annual Report not only describes the work of the Board and how the Code has been applied during the past corporate governance year, but also provides a forum for discussion and debate on current corporate governance issues, both in Sweden and internationally. The Board therefore invites external contributors to publish articles and opinions within the field of corporate governance that are deemed of general interest. The content of these articles is the responsibility of the respective author, and any opinions or positions expressed are not necessarily shared by the Board.

This year's report contains four contributions.

- In the first article, John Plender, columnist and editorial writer for the Financial Times and an internationally renowned debater of corporate governance issues, reflects on the themes discussed at the conference hosted in December 2009 by the Board as part of the Swedish Presidency of the European Union. Among other matters, Plender identifies the lack of industry expertise on the boards of many finance companies as a major cause of the crisis in the financial sector. He stresses that key factors such as competence, integrity and relevant skill sets on boards cannot be achieved through regulation and governance codes, but through strong leadership, especially on the part of company chairs.

- In the second article, Annika von Haartman, Head of Surveillance at NASDAQ OMX Nordics, describes how the Stockholm Stock Exchange fulfils its role in the Swedish self regulation system on the securities market. In short, this role is to monitor that companies apply the Swedish Corporate Governance Code correctly, though not whether and how companies choose to comply with individual Code rules. The latter is rather a matter for the shareholders and other actors on the capital market, who can express their opinions of companies' corporate governance through dialogue and ultimately through investment or disinvestment in the companies' shares.

- In the third article, Ronald Fagerfjell, a journalist, author and debater in the field of finance and economics, puts the issue of gender distribution on company boards in a new light. With women making up 22 per cent of directors of boards, Fagerfjell argues that we are half way to the target of gender balance after a relatively short period of time.

- In the final article, Kerstin Hessius, chief executive officer of the third Swedish National Pension Fund and a member of the Swedish Corporate Governance Board until spring 2010, discusses the need for a code for institutional investors in Sweden. The background to this is the ongoing discussion on this issue, not least within the EU, where the role of shareholders has become more of a focus for debate within corporate governance, with demands for a more active and committed ownership role, particularly on the part of institutional investors. The United Kingdom has already introduced The UK Stewardship Code, and Hessius examines how Swedish institutions fulfil their ownership role in relation to those guidelines.

Beyond the crisis
New challenges for corporate governance

John Plender is a columnist and editorial writer for the Financial Times. He was the moderator of one of the three conference sessions.

During the Swedish Presidency of the European Union, the Board, in collaboration with the European Corporate Governance Institute (ECGI), organised a well attended international conference with this overall theme in Stockholm on 2–3 December 2009. This was one of a series of such conferences arranged by many EU Presidencies in recent years.

Beyond The Crisis was an entirely appropriate title for the 8th European Corporate Governance Conference in Stockholm last December because financial crises and recessions, while painful, nonetheless present opportunities for change that are not present in more normal times. Yet for change to amount to constructive reform, it is vital to start with the right diagnosis. Hans Dalborg, chair of the Swedish Corporate Governance Board and of Nordea Bank, provided an excellent route map for delegates when he declared at the outset that strong boards accountable to shareholders are a pre-requisite for better management and less uncontrolled risk, adding that "we can expect better strategies and management when owners play a strong role".

Of course, the structure of ownership has changed dramatically since the corporate governance movement took off in the early 1990s. The globalisation of capital flows has led to domestic shareholders seeing their stake in their own equity markets shrink as foreign investment institutions have sought to diversify across national boundaries. Since the banking crisis, the share of the state has also increased as governments have extended capital support to failing financial institutions. Note, in passing, that these two groups are more prone to short termism than conventional pension funds and insurers investing in home markets.

On the quality of boards it was sometimes argued before the crisis that one of the achievements of the corporate governance movement was greater professionalism in boardroom conduct. If that was true of the corporate sector at large, it was certainly not true of the financial sector, as many conference speakers emphasised. Too many bank boards lacked directors with real expertise in banking, or understanding of risk. Huge exposures to structured products and derivative instruments were not matched by a growth in board expertise either in the US or Europe.

That is not to say that all the measures taken to improve the quality of boards in the past, such as splitting the chairman/chief executive role, introducing more independent non-executive directors and putting in place focussed board committees, were not for the good. Yet with hindsight we know they were not enough. Perhaps the most vital governance lesson of the crisis, which has wider application across the corporate sector, is that competence, integrity and appropriate skill sets for the task in hand are crucial. These qualities cannot be delivered by governance codes alone. Leadership, particularly on the part of board chairs, is overwhelmingly important.




So is the ownership role. If the comply or explain system that now applies across most of Europe is to work, it is essential that disclosure is of a high standard. Here the report commissioned by the European Commission on monitoring and enforcement mechanisms on corporate governance in member states, which was presented to the conference, found that the quality of explanations for non-compliance was patchy. Nor did the report find that the response by institutional investors was very effective.

To make that point underlines an important recent shift in the governance debate. For much of the past 20 years the focus has been on boards. Now the emphasis is rightly shifting to the governance of investing institutions and to the chain of accountability from management, through the various intermediaries, to end-investors such as pension fund beneficiaries. This is a difficult agenda because many fund managers are conflicted. They are often more anxious to minimise their own business risk than to maximise returns to the ultimate beneficiary. Engagement with management is also costly and above all difficult.

Few investment institutions have the capability to engage constructively with management on big strategic issues. When they do, they can be horribly wrong – witness how the great majority of institutional investors in RBS voted in favour of its catastrophic takeover of part of ABN-Amro. Yet it ought to be possible for them to engage more usefully on another issue that greatly pre-occupied the conference: directors' pay. There was little, if any, dissent among delegates over the proposition that poorly designed bonus and incentive structures contributed to excessive risk taking in the financial sector. In some countries absolute levels of boardroom pay have also risen to such levels that inequality has become a political hot potato. In many jurisdictions the quality of disclosure of boardroom pay is high. Incentive packages may not be simple, but they are nothing like as complex as many of the structured products that torpedoed leading banks. So there ought to be a more interventionist role for the institutions here to address the conflict of interest in management's position. Maybe this could even include an extension of the Swedish system of bringing shareholders onto nomination committees to putting them on the remuneration committee as well.

Yet governance is not just a matter for shareholders. As Xavier Freixas reminded us in his presentation, debt holders, depositors and above all taxpayers are important stakeholders in banks too. Whether these other interests should be given more voice in the governance process is a question that is bound to be raised more often in future, not least if regulators' enthusiasm for contingent (or convertible) capital produces a large new class of stakeholders with a very powerful interest in preventing excessive risk taking. As for the taxpayer, the history of government representation on bank boards does not suggest this would be an ideal form of protection. To stop the lunacy whereby bank profits are privatised while losses are socialised in repeated systemic crises, a combination of a monetary policy that pays more attention to asset prices and tougher regulation probably remains the best hope.

The Stockholm Stock Exchange monitors application of the Code

Annika von Haartman is Head of Surveillance at NASDAQ OMX Nordics.

Stock exchanges perform a vital function in society by enabling the listing and trading of securities. The Stockholm Stock Exchange has an obligation to maintain relevant rules and sanctions in order to maintain public confidence in the securities market. A listing on the Stockholm Stock Exchange obliges companies to follow certain regulations and generally accepted principles. The Surveillance function of the Stockholm Stock Exchange is responsible for monitoring that listed companies adhere to the regulations and generally accepted principles in the securities market. This includes monitoring how the companies apply the Swedish Corporate Governance Code.

Division of roles among the Board, the Swedish Securities Council and the Stockholm Stock Exchange
The Association for Generally Accepted Principles in the Securities Market is a non-profit organisation that coordinates self regulation on the Swedish securities market. The tradition of self regulation in Sweden stretches back to the late 1960s and performs a vital function in maintaining and promoting confidence in the Swedish securities market. The Swedish Corporate Governance Board and the Swedish Securities Council are two of the Association's three autonomous bodies. The Stockholm Stock Exchange is one of the principals of the Association.

The Board sets norms for good corporate governance and administers the Code. The Securities Council promotes generally accepted principles in the securities market through statements, advice and information. The Council can also bring up relevant issues on its own initiative. Neither the Board nor the Securities Council has a supervisory or adjudicative role with regard to individual companies' application of the Code. Application of the Code is a component of generally accepted principles in the securities market, to which companies are obliged to adhere as part of their listing requirements. Responsibility for monitoring that the companies apply the Code lies therefore with the Stock Exchange.

What does "applying the Code" mean?
The Code is a collection of guidelines that constitute generally accepted principles in the securities market with regard to corporate governance. Through the principle of "comply or explain", companies can choose to deviate from individual rules in the Code. Companies are to report each case of non-compliance openly, describe the solution they have chosen instead and justify their decision.

The Stock Exchange monitors companies' application of the Code by checking that companies issue a corporate governance report annually and that any non-compliance with Code rules is described and explained clearly. The readers of corporate governance reports must be able to understand the reasons for non-compliance and what the company has chosen to do instead. It is not the role of the Stock Exchange to consider whether the explanations are acceptable from an investor perspective. That responsibility lies with the readers of the corporate governance reports, i.e. the companies' shareholders and other actors in the securities market.

How does the Stock Exchange monitor this in practice?
The Stockholm Stock Exchange carries out annual inspections of companies using risk and rotation based sampling. The rotation based sample ensures that all listed companies are inspected within a five year period. The Stock Exchange then examines whether the companies have produced and published corporate governance reports and that any non-compliance has been reported and explained.

The inspection results in a letter to each company. There are three kinds of letter:

1. Information that the inspection has not found grounds for Stock Exchange action.

2. Information that the inspection has found certain details that the company should consider in its next corporate governance report, but that the Stock Exchange does not intend to take any action on the issue.

3. Information that the inspection has resulted in certain observations that may constitute breaches of the Code. The Stock Exchange asks the company to respond with its opinion on the observations. If the Stock Exchange finds the companies explanation acceptable, it sends a final letter containing the equivalent of letters 1 or 2 above. If the Stock Exchange considers that the company has committed a serious breach of the existing rules, the matter is forwarded to the Stock Exchange Disciplinary Committee for assessment.

About the Code

The aim of the Swedish Corporate Governance Code is to promote good corporate governance in Swedish listed companies. Good corporate governance maintains and reinforces market actors' confidence in companies. This in turn improves companies' access to risk capital. In other words, all market actors benefit from a well functioning code.

For a code to function well, all actors need to take responsibility. The Board needs to manage the Code actively and monitor developments in the market, companies need to adapt their application of the Code to business conditions, the Stock Exchange needs to monitor carefully that companies apply the Code correctly and, on request, the Securities Council needs to issue statements on how Code rules are to be interpreted.

Finally, and perhaps most importantly, the target group for corporate governance reports, i.e. shareholders and other actors on the securities market, need to consider and decide whether the deviations from Code rules that companies report are acceptable from an investor perspective.

The Stockholm Stock Exchange Surveillance Function

The primary goal of the Surveillance function within the Stockholm Stock Exchange is to maintain and enhance public confidence in the securities market. The Stock Exchange monitors around 260 listed companies and 170 trading members. Infringements of Stock Exchange regulations can be forwarded to the Stock Exchange Disciplinary Committee for rulings on possible sanctions. Suspected breaches of the Market Abuse Penal Act are reported to Finansinspektionen, the Swedish Financial Supervisory Authority, which in turn can pass these on to the Swedish Economic Crime Authority.

The Surveillance function is divided into Issuer Surveillance and Trading Surveillance.

Issuer Surveillance

The listing process

Issuer Surveillance is responsible for the rigorous scrutiny of companies prior to an initial public offering. It is also responsible for the listing process for other financial instruments.

Information monitoring

Issuer Surveillance monitors that listed companies fulfil their information obligations to the market. Normally, the companies are to announce information that may affect share prices in a press release as soon as possible.

Report monitoring

Issuer Surveillance is responsible for the continuous monitoring of financial reporting, e.g. that listed companies have produced the regular financial information in accordance with International Financial Reporting Standards (IFRS).

Monitoring of generally accepted principles in the securities market

Issuer Surveillance is responsible for monitoring that listed companies adhere to generally accepted principles in the securities market. This includes monitoring that companies apply the Swedish Corporate Governance Code.

Trading Surveillance

Trading Surveillance contributes to the maintenance of fair, efficient and well organised trading.

An IT system monitors trading and generates alarms in response to certain predetermined conditions or values. The system registers pricing and turnover and identifies deviant trading patterns. Against the background of business intelligence, where the information issued by companies is in particular focus, Trading Surveillance checks all alarms and commences investigations when it suspects infringements of Stock Exchange regulations or the Market Abuse Penal Act.

Trading Surveillance is able to correct trading data, annul transactions and halt trading of individual shares.

The Swedish Stock Exchange's Surveillance function engages in regular dialogue with the companies and members. It also provides training and advice to listed companies and trading members.

Halfway towards gender balance

Ronald Fagerfjäll is a journalist and author. He is a regular contributor to the leader page of Dagens Industri, Sweden's leading financial daily. He was previously editor-in-chief of Affärsvärlden, Sweden's largest and most respected business magazine, for many years.

At the annual general meetings held in spring 2010, more women were elected to the boards of major companies. Companies such as Atlas Copco, Skanska and Volvo proudly presented their new directors. A total of 22 per cent [1] of the seats on large Swedish companies are now held by women, a figure which has tripled in eight years. Expressed another way, nomination committees have presided over a rate of change of 15 per cent per year over a fairly long period. Female directors of companies are still a very small group, but surely consistently one of the fastest growing in the country.

Why is this seldom highlighted in the debate? The answer is probably that intellectual social debaters have never been lovers of steady, gradual change. It is only in retrospect that this type of pragmatic reform is recognised. While the process is ongoing, everything that is done is too little or too slow.

A debate about symbols

For the purposes of this article, I have interviewed various people involved in recruitment processes in listed companies. They have an optimistic view of events, but not of the surrounding debate. Several interviewees wanted to speak "off the record", as they did not want to engage in a public "fruitless battle" with politicians and media professionals.

They feel that the loud voices in the press on the subject of female representation on boards of listed companies does not actually reflect the reality of listed companies, nor is there any desire to find out more about this reality, as all kinds of debater have their own agendas.

Some journalists have the subject of boards as part of their specialist field. These will always have a negative perspective as long as there is media focus on the issue, otherwise readers will lose interest. No newspaper wants banner headlines proclaiming "another step towards gender equality on company boards."

The other group happy to profit from the debate is politicians with a gender equality profile. Company boards merely serve as symbols of the need for reform when politicians are fighting to attract female voters in the margins. Who could hope to attract voters by praising the leadership of large corporations for the advances they have made?

Interviewees also mention with some resignation a third category of debater that has access to the media every time the issue of company boards is mentioned. Maintaining a high profile on women's representation is an aspect of the professional identity and success of debaters such as fund managers and board professionals.

In the debate climate described by the people I interviewed, discussions about women on boards take on the character of symbolic fencing matches with clearly identifiable thrusts and ripostes, and those who actually work with the issue find it difficult to participate. Pragmatic agents of change are painted as opponents, just as in so many other change processes throughout history.

What are nomination committees doing?

How do the members of nomination committees view the change? All the people interviewed were strikingly optimistic.

"The issue is on the agenda of nomination committees and great efforts are being made" says Marianne Nilsson, for example, who is Head of Corporate Governance Issues at Swedbank Robur, one of the largest fund managers in Sweden.

"I expect the proportion of female managers to continue to grow", she adds. "I think the rate of change depends on what happens with the position of women in the rest of society. All things equal, it was easier to go from 5 per cent to 20 per cent than it will be to go from 20 per cent to 40 per cent, providing executive management teams continue to look the way they do."

Is it difficult to find female candidates? "No," says Annika Andersson, Head of Corporate Governance & Information at the Fourth Swedish National Pension

[1] Source: SIS Ownership Service: www.aktieservice.se

Fund. Many women are willing, but they don't always have the experience required. It is mainly experience of top management positions that gives the broad competence needed on a board.

All of the people I interviewed are firmly against quotas for reasons of free market economics. Entrepreneurs and owners are the ones who bear the corporate risk and they must be free to choose their own board members. Some nomination experts talk of the problems of forcing owners of smaller companies to choose directors from a wider circle. The boards of such companies are often purely formal in character. In some cases, the auditor even writes a suggestion of minutes to fulfil the minimum requirements stated in the Swedish Companies Act. Rules on quotas would simply be yet another way for politicians to make life difficult for new businesses and entrepreneurs.

"It is of course good that the very threat of quotas has increased pressure to act," says Marianne Nilsson.

One interviewee underlined the inevitable mathematics of board nomination processes. For boards to work effectively, each director needs to be able to work for six or seven years to grow into the role and provide continuity. Boards cannot replace more than every sixth member each year unless, as in the case of Atlas Copco, they expand the board to make space for a new category. Larger boards, however, can only be a temporary solution.

Those who take women's membership of company boards seriously can see that the change achieved in Norway by mandatory means is being implemented structurally by Swedish nomination committees, claim several of the people I interviewed. They believe that the Swedish model is considerably better than the Norwegian one. Legislating on quotas would contribute nothing positive, as we are already halfway there.

Critics of the work of nomination committees often state that women bring other skills to the table and that not all members of a board need a business background.

"That was a better argument a few years ago" says one of the anonymous respondents. "We have actually gone in that direction and recruited a number of women with backgrounds in human resources, finance and information, where women are just as numerous as men. In many cases, the recruitment has been successful."

"But we cannot end up with a situation in which board work becomes a kind of consultancy assignment where directors use their various professional skills in all boards. If all companies could be run in the same way, we wouldn't need a market economy. Any old bureaucrat could develop companies. No, the crucial thing for a board is that every member really understands the company's unique position in its particular market, meaning how business is done in that context. People with no experience of business find it more difficult to learn this."

One interviewee highlighted the need to make it easier for women to have executive management roles with business responsibility. It is also vital to stimulate an interest in technology and industries previously dominated by men.

Major changes take time

Being an experienced business journalist and corporate analyst, I have been asked to reflect on the issue of the composition of boards in this Annual Report. Allow me first to declare my own basic opinion regarding women and corporate leadership talent in order to avoid unnecessary misunderstanding.

Nobody can know for sure, but I am convinced that women will gain at least fifty per cent of the influence on business and enterprise in the world's most advanced economies in the next few decades. This is the most important of a range of social revolutions caused by changes in the economy. What we are seeing in countries like Sweden is one of the greatest social revolutions in history, comparable with Old Testament times, when the men of the tribe began working in the fields "by the sweat of their brows". Previously, for 99 per cent of human existence, economics and finance was mostly women's work. Men took responsibility for defence, rites and hunting. Many men in native populations and small agrarian communities still cling on to these ancient roles, even though they have nothing left to defend or hunt. Women continue to run the economy, in parts of Africa, India and Latin America for instance, just as they have always done. That is the main reason why financial aid organisations like Percy Barnevik's Hand in Hand only make loans to women.

In other parts of the world, men took control of the economy by virtue of having bigger muscles. As recently as the 19th century, men's muscle power in agriculture and industry provided half of the economy's power outside the home. Today, this contribution is negligible.

Women and men are different, but the lessons on the distribution of labour between women and men learned in the limited periods of agrarian economy and industrialism are not as interesting as one might think. At least not in terms of genetics.

No revolution of this kind has ever been painless or voluntary. Bastion after bastion must be conquered. Things don't always turn out right at the first attempt.

How important is board representation?

Boards have never seemed like a particularly big issue to me, despite my great interest in this revolution. They are neither the first nor the most important bastion. Boards of companies in free markets do not have the power that similar bodies in politics have.

Nations are enormous institutions. Companies, on the other hand, are smaller, more temporary creations. They only live for as long as they find ways to make their capital grow. Most companies die in their childhood or youth, and many more are started. That the world's biggest company for as long as anyone can remember, General Motors, recently went bankrupt during the greatest expansion in the car industry that the world has ever seen is a reminder of this. Not even the value added by the world's current largest company, WalMart, is greater than that of a medium-sized African state.

The power in this volatile corporate world lies naturally with executive management and the management of business areas and subsidiaries. It is here that the companies continually remodel themselves, expand and wither. Anyone who wants real power must begin here. But this power is temporary. The expiration date of a chief executive officer is normally just five years away. The main responsibility of the board is to appoint, support, evaluate and replace executive managers.

This is not to say that achieving greater representation on boards is of no interest in terms of gender equality. Female board directors pave the way for women lower down in companies.

But company boards are not representative bodies other than for the survival competence of the corporate sector. As boards are normally populated by people who were active in companies eight to ten years earlier, there can easily be a conservative drag that creates problems not only with regard to views on the competence of women, but also with regard to new technology, globalisation and more.

Where does the glass ceiling come from?

Are there realistic prospects that women's representation on boards will continue to grow? Are there invisible and major barriers to prevent it happening?

The first bastion is formal education. Here, things look promising from a female perspective. Teachers at the country's leading elite schools report female progress and success in all subjects. The same can be found in the municipal school system. It may be time to turn things around and talk about a male problem, low-achieving boys who will never be bread winners.

At university level, technical subjects are still dominated by men, but this can also change rapidly. In other areas of education vital for business, such as business administration and law, women are already in the majority. Of the generation about to enter the labour market, women hold six out of ten academic degrees. Figuratively speaking, a steamroller is on the move.

In New York, this has resulted in women aged 21–30 having higher average salaries than their male colleagues, due to their superior education level. If this change has not yet happened in Stockholm and other large Swedish towns, it is on its way.

Sweden has one of the best gender equality records in the world, and this can be seen in the increasing number of women in lower management. Running a hotel or a branch of a bank has been "a woman's job" for the last ten years. In upper management, positions in finance, human resources and communications are more or less evenly distributed between the sexes. Between 30 and 40 per cent of all managers are women, depending on which sector the company operates in.

But something happens on the way up, an international phenomenon that the researcher Rosabeth Moss

Kanter called “the glass ceiling”. At the highest level of corporate management, women are conspicuous by their absence. Something blocks their career path.

This ceiling seems to be lower in Sweden than in many other countries, despite our gender equality. One likely explanation is that our system of municipally provided child care, combined with our high taxes on earned income, has become a career trap for the highest achieving women.

The most financially advantageous alternative for a couple with two careers is for the partner with the lower salary to spend more time on work in the home. That way, the partner with the higher salary can bring in a good income while the one who is at home can at least work tax-effectively combining part time employment with working in the home. That men so often have higher salaries is not only due to attitudes, but also because they are often a few years older than their partners and have progressed further in their careers.

Studies have shown that a family with three children requires over 70 hours of work each week, for everything from after-school activities and help with homework to cooking and cleaning. During their most important training period, top management candidates have a great deal of pressure on their available time and spend 60–70 hours a week on work. So the equation does not add up. It is easy to understand that couples who take care of their homes and families themselves face enormous pressure on their available sleeping hours and opportunities to rest and relax. That burnout has stopped so many potential top managers is easy to understand. That so many Swedish women do not even try is even more understandable.

What can we do about it?

The solution to the problem is not simply that men must do more in the home. Demands at work need to be reduced across the board. Companies must use their managerial candidates’ time at work wisely, not waste it. Much of the work involved in running a home that does not involve bringing up children needs to be done by others. Potential managers who do their own cleaning, laundry, washing up, gardening and decorating are jeopardising their futures and that of their families. If it is so fulfilling to clean your own home, why do we have a division of labour at work? It is a fact that women and men who reach the top, despite all the obstacles, seldom mention their families as a problem. Who wants to advertise a guilty conscience about their children and family?

In this perspective, household tax deductions for domestic services, maintenance, repairs and renovation seem to be a more important measure for women’s possibilities to attain real power in business than legislation on quotas for company boards.

Companies must also provide active support for female and male top management candidates when they return from periods of parental leave or part time employment so that they can catch up on training they have missed while their peers have been working full time. They have good reasons to do so, as individuals with a sound balance in their family lives probably make better managers.

There is also an intrinsic value in having more women in leading positions, as the talent pool becomes larger, just like the experience and diversity at the top. But this is hardly the main point. It is that women are going to take that portion of the power that they can by using their own resources. Why not work with the change rather than against it?

Halfway still to go

As can perhaps be read between the lines, gender distribution at the top is not an equality problem, hardly even an equal opportunities problem in the conventional political sense. We are talking about less than one per cent, an extremely well paid portion of the working population. Becoming a top manager at a large company in a market economy is not a democratic right or a representative position. It is a highly skilled job that needs to be filled by the best possible candidate, just like in a top class symphony orchestra. Those who win these positions are usually the talented candidates who have been able to train hardest for the role.

The board is of course a part of this training and evaluation system. Without women on the board, there is a risk that executive recruiters do not understand how the world has changed. But there is also a risk that impatience will cause damage.

Swedish nomination committees are interesting, because they have shown that great progress can be made through gradual change. We are already halfway there.

Do we need a Swedish governance code for investors?

Kerstin Hessius is chief executive officer of the Third Swedish National Pension Fund and was one of the original members of the Swedish Corporate Governance Board until leaving her post in spring 2010.

National investor governance codes are beginning to gain ground, and this year, a Stewardship Code for institutional investors has been introduced in the UK. Also in Sweden we are now seeing demands for a national governance code for investors.

The purpose of a national stewardship code is to increase the commitment of institutional investors, thereby increasing pressure for responsible governance of companies. In Sweden, shareholders have real power over important issues in listed companies, which leads to the direct involvement of institutional shareholders. The need to mobilise shareholder power is not as apparent. We can therefore take our time. An initiative for greater openness should be considered, but it is difficult to see that a specific code for shareholders would add anything substantial. It is essential that influence is exercised responsibly and does not become mechanical.

Today, more or less every country with a developed stock market has a national code for the governance of companies. In the wake of the financial crisis and in evaluations of how the codes have worked in practice, focus has begun to shift towards shareholders. The international trend in self regulation is that there must be greater pressure on institutional investors in order to achieve good governance of companies.

The United Kingdom was one of the first countries to identify the need for a national code of corporate governance, and a British code has existed in different forms since the early 1990s. Following the most recent review of the Combined Code on Corporate Governance, its name was changed to the UK Corporate Governance Code. The Financial Reporting Council, FRC, is responsible for the British corporate governance code, which is similar to the Swedish code in that it employs the comply or explain principle and that its target group is limited to companies listed on regulated markets.

In December 2009, the FRC published a report on its review of the corporate governance code. The report concluded that there was strong support for the principle of comply or explain among companies and investors. There was however considerable concern about the lack of dialogue and, where it existed, the effectiveness of dialogue between institutional investors and boards of listed companies.

These problems were also highlighted by Sir David Walker when he was commissioned by the British government to analyse the governance of companies in the financial sector. His report, The Walker Review, which was presented in November 2009, includes a number of recommendations on how institutional investors should increase their engagement with British companies. The report suggests that foreign investors in British financial firms be encouraged to adhere to a voluntary British governance code for institutional investors, as this would be in the interest of both investors themselves and the ultimate beneficiaries.

At the request of the British government, the FRC accepted responsibility for the design, monitoring and future review of the governance code for investors. The FRC feels that this mission provides an opportunity to contribute to a constructive dialogue between companies and their shareholders, which in turn reinforces good corporate governance and therefore complements the FRC's existing areas of responsibility.

In July 2010, after a round of consultation based on a proposal issued in January 2010, the FRC presented a new governance code for institutional investors, the UK Stewardship Code. This code affects all investors, both British and foreign, including Swedish asset managers who invest in British companies.

The FRC's view is that the code will contribute to improved governance of British listed companies. The potential benefits are large. Greater engagement should improve the governance and performance of companies, improve the efficiency of capital markets and increase confidence in the companies. A clearer picture of the responsibilities of asset managers, along with greater accountability of institutional shareholders in relation to, for example, fund investors, is also expected to increase confidence in the financial system. A clear understanding of how responsibility is divided should also make it easier for the ultimate beneficiaries, (individuals saving in funds and pension schemes), to determine the conditions for the funds' mandate to manage assets and hold asset managers accountable.

The content of the UK Stewardship Code

The Stewardship Code aims to enhance the quality of engagement between institutional investors and the companies they invest in and to clarify the division of responsibilities between them. Improved dialogue is expected to help improve long-term returns to shareholders and reduce the risk of negative effects of poor strategic decisions.

The Code is to be applied on a comply or explain basis, and institutional investors who do not wish to apply the Code should state publicly that the Code is not relevant to them and explain why this is the case. Institutional investors who choose to apply the Code should state how they apply its principles in practice.

The Code is founded on seven principles, with accompanying guidelines on how investors should interpret the principles.

Principle 1: Institutional investors should publicly disclose their policy on how they will discharge their stewardship responsibilities.

The policy should include a description of how investee companies will be monitored. It should also include the investor's policy on voting and any use made of proxy voting or other voting advisory service, including information on how these are used.

Principle 2: Institutional investors should have a robust policy on managing conflicts of interest in relation to stewardship and this policy should be publicly disclosed.

An institutional investor's duty is to act in the interests of all clients and/or beneficiaries. As conflicts of interest can arise, institutional investors should put in place and maintain a policy for managing them.

Principle 3: Institutional investors should monitor their investee companies.

Investee companies should be monitored to determine when it is necessary to enter into an active dialogue with their boards. This monitoring should be regular and the process clearly communicable, and it should be checked periodically for its effectiveness. As part of this monitoring, institutional investors should maintain a clear audit trail, for example, records of private meetings held with companies, of votes cast at shareholders' meetings and whether they have voted for, against or abstained on different issues. Institutional investors should endeavour to identify problems at an early stage to minimise any loss of shareholder value. If they have concerns they should seek to ensure that the investee company's board is made aware of them. As institutional investors may not wish to be made insiders, they will expect investee companies and their advisers to ensure that information that could affect their ability to deal in the shares of the company concerned is not conveyed to them without their agreement.

Principle 4: Institutional investors should establish clear guidelines on when and how they will escalate their activities as a method of protecting and enhancing shareholder value.

Institutional investors should set out the circumstances when they will actively intervene. The need for intervention should be considered regardless of whether an active or passive investment policy is followed. Instances when institutional investors may want to intervene include when they have concerns about the company's strategy and performance, its governance or its approach to the risks arising from social and environmental matters.

Initial discussions should take place on a confidential basis. However, if boards do not respond constructively, institutional investors should consider whether to escalate their action, for example by holding additional meetings with the management and the board, intervening jointly with other institutions, making a public statement in advance of the shareholders' meeting or submitting or supporting resolutions at shareholders' meetings.

Principle 5: Institutional investors should be willing to act collectively with other investors where appropriate.

Collaboration with other investors can often be the most effective manner in which to engage. Collaborative engagement may be most appropriate at times of significant corporate stress which threatens the survival of the company or wider economic stress that affects the sector or the economy as a whole.

Principle 6: Institutional investors should have a clear policy on voting and disclosure of voting activity.

Institutional investors should seek to vote all shares held. If they have been unable to reach a satisfactory outcome through active dialogue, they should register an abstention or vote against the resolution. In both instances, it is good practice to inform the company in advance of their intention and the reasons why. Institutional investors should disclose publicly voting records, and if they do not they should explain why.

Principle 7: Institutional investors should report periodically on their stewardship and voting activities.

Transparency is an important feature of effective stewardship. Institutional investors should not, however, be expected to make disclosures that might be counterproductive. Confidentiality in specific situations may well be crucial to achieving a positive outcome. Those that act as principals, or represent the interests of the end-investor, should report at least annually to those to whom they are accountable on their policy and its execution.

Little need for a national stewardship code in Sweden

Nowadays, by and large all pension funds and large asset managers in Sweden have publicly available investor codes. Sweden already has common recommendations for investor engagement, e.g. the guidelines set out by the Swedish Investment Fund Association. These guidelines recommend members of the Association to exercise their ownership of shares in the common interest of all clients and/or beneficiaries, which means that they are to establish and disclose a policy for stewardship. The Association recommends that member companies use their right to vote at shareholders' meetings, seek to ensure disclosure of the principles guiding the work of nomination committees and seek to ensure that company boards contain the required competence. The Swedish Investment Fund Association's guidelines do not apply to all institutional investors, but they can act as general advice on how all institutions should exercise investor governance.

Many pension funds and other institutional investors have also signed the United Nations Principles for Responsible Investment, (PRI), which includes principles regarding environment, ethics and governance. The United Nations principles advocate active ownership, engagement with companies, collaboration with other investors and transparency. By April 2010, 731 institutional investors had signed the principles, 22 of which were Swedish.

Another important international body is the International Corporate Governance Network, (ICGN), an organisation made up of institutional investors from all over the world. The aim of the ICGN is to pursue common stewardship issues. It draws up recommendations on responsible investment with the emphasis on protecting the rights of shareholders.

Like other stakeholders, investors are increasingly demanding that companies have proper systems and guidelines for dealing with issues such as environment and social responsibility. These have become hygiene factors for companies, and investors around the world

The international development of governance codes for investors

There has been interest in a common governance code for Investors in the United Kingdom since the early 1990s. As early as 1991, the *Institutional Shareholder Committee, ISC*, an association comprising organisations in the fields of insurance, asset management and pensions, published a statement on the issue, *The Responsibilities of Institutional Shareholders in the UK*.

Paul Myners, the *UK Financial Services Secretary*, presented a scrutiny report on institutional investors in 2001. Lord Myners' report included a number of principles for the investment decisions of pension funds. *The Myners Principles* included a recommendation to integrate shareholder activism into the mandate of asset managers.

In response to Lord Myners' report, the ISC presented a set of guidelines, *the Statement of Principles on the Responsibilities of Institutional Shareholders and their Agents in Respect of Investee Companies*, in 2001. These guidelines were revised in 2004 and 2007.

In June 2009, the ISC declared its intention to develop the guidelines into a code, *The Institutional Shareholders´ Committee Code 2009*. This code, which was published in November 2009, is voluntary, but it urges institutions to state publicly how they apply or intend to apply the principles of the code to ensure that the principles are adhered to. The possibility to join the code voluntarily is an effort to urge investors that are not members of the ISC's member organisations, e.g. foreign asset managers and sovereign funds, to apply the code.

In January 2010, the Financial Reporting Council, FRC, presented a proposal entitled *A Stewardship Code for Institutional Investors*. Following a consultation period, the FRC presented the UK Stewardship Code in July 2010.

The issue of a code for investors has also been discussed in the European Union. In November 2009, the EU Commission presented a report on the issue, A *Study on Monitoring and Enforcement practices in Corporate Governance* in the Member States. The report, written by the governance consultancy RiskMetrics Group, contains a summary of national codes for listed companies. The report recommends that codes for investors should be introduced, at national level rather than EU level.

Portugal, the Netherlands and France, all EU member states, have already introduced mandatory reporting on voting policy and voting records for institutional shareholders. Other countries have elected to apply international standards instead. The Danish Financial Supervisory Authority, for instance, recently chose to introduce a requirement that institutional investors report in accordance with the United Nations Principles for Responsible Investment. The United States has also begun to show interest in the issue. In June 2009, the Securities and *Exchange Commission, SEC*, set up a committee to examine the issue of shareholder responsibility.

have adopted a more active stewardship role by collaborating with other investors to influence companies by voting more of their shares, pursuing certain issues and demanding increased transparency of investee companies. It is therefore a natural development that investors be required to increase their own transparency regarding how they discharge their stewardship responsibilities.

Looking at the various principles of the UK Stewardship Code, a number of Swedish institutions probably fulfil many of the requirements. They have well detailed investor governance policies, which are usually publicly available and easily accessible. Most institutions vote all or some of their shares in investee companies, either themselves, by proxy or with the aid of an external voting advisory service. The majority of institutions have so far concentrated their resources on voting in Swedish companies, but the trend is towards more of them voting at least some of their shares in global portfolios of investee companies.

Voting is a positive and responsible way to discharge stewardship responsibility and influence companies, but it costs. The benefits of voting should therefore always be weighed against the cost with regard to the number of companies and geographical markets invested in and the level of investment in the company. That institutions make such assessments should be in the interests of clients and beneficiaries. On the basis of the comply or explain principle, investors might be more explicit and disclose the reasons for their decisions, i.e. in which investee companies they have voted. Stewardship responsibility can also be discharged in ways other than voting, e.g. through engaging in dialogue and placing demands on companies. In this respect, PRI and ICGN have an important role, as they act as global networks which investors can use to collaborate and pursue common initiatives.

Many Swedish institutional investors produce some form of report on their stewardship and voting records. The national pension funds are among the most transparent and report annually how they have discharged their stewardship responsibilities and how they have acted on issues concerning the environment and ethics. This transparency has received international praise and served as a role model for many who are actively involved in stewardship issues.

Openness is to be recommended

The problem of poor engagement between shareholders and companies that was identified in the United Kingdom cannot be assumed to be a problem in all countries. One should be careful about drawing the conclusion that such conditions also exist in Sweden without examining the issue more closely.

In general, Swedish institutions are more active in their Swedish portfolios than internationally. The likely reason for this is their greater investment in Sweden than abroad. The Swedish stewardship model, in which major shareholders sit on nomination committees, means that there is always a dialogue between the board and the owners, at least on one of the most important investor issues, the composition of the board.

This is one example of many in which legislation and regulation in Sweden gives shareholders relatively strong influence. This leads naturally to engagement between shareholders and companies. Most institutional investors in Sweden can also claim that they follow the seven principles of the British code, at least in their Swedish portfolios.

A Swedish code for institutional investors would therefore not add much. Further, the national codes that have been presented so far are too vague for such a broad group as institutional investors. It is essential that a code leads to active and committed ownership rather than a mechanical discharge of responsibilities. The initiative for common stewardship codes normally comes from the institutional investors themselves, because they feel that their influence needs strengthening. They therefore want to mobilise all institutions. There is probably some resistance to a shared stewardship code among institutions in Sweden, as most see the discharge of their stewardship responsibilities as an integral part of their asset management.

It is not uncommon that institutional investors are accused in the Swedish media of not taking their responsibility. Although this portrayal is unfair, it must be taken seriously. It may be due to a lack of information. Openness regarding the practical discharge of their stewardship and the decisions behind it should be in the interests of all responsible institutional investors. This would increase knowledge and understanding of the institutions' actions with regard to ownership issues among beneficiaries and capital investors and among investee companies. Swedish institutional investors might therefore consider an initiative on openness.

If you have any questions or comments for the Swedish Corporate Governance Board, please feel free to contact us.

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