

SWEDISH
CORPORATE
GOVERNANCE BOARD

Annual Report 2022



Contents

Forewords	1
I. ACTIVITY REPORT	4
The mission of the Swedish Corporate Governance Board	4
The work of the Board during the year	6
Key issues	11
II. APPLICATION OF THE CODE IN 2021	12
Companies' application of the Code	12
Interpreting the Code	20
III. PERSPECTIVES	21
Comments on the European Commission's proposal for a new Directive on Corporate Sustainability Due Diligence	
<i>Kollegiet för svensk bolagsstyrning</i>	22

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A word from the Chair of the Board

As my first year as Chair of the Swedish Corporate Governance Board approaches its end, it is time to write my first foreword to the Board's annual report. Taking the baton after Arne Karlsson's seven years as chair went very smoothly. The Board has had the privilege of good continuity within the Board, with members who have contributed long experience and wisdom in a positive way. This has been supplemented by new members with competence that further adds to the strength of the Board. Additionally, we receive strong support from the secretariat, which guides our work forward with deep, detailed knowledge and constructive solutions.

Recent years have been marked to a large extent by the effects of the pandemic and by geopolitical and geoeconomic changes in the world that have not only had an impact on a human level, but also for the finances of most actors accustomed to operating in the global market. The war in Ukraine and continued shutdowns in China as a result of the pandemic impact the living conditions of millions of people and also dampen the outlook for the world market through new supply chain disruptions, increased uncertainty and sharply rising commodity prices that add inflationary pressure.

Despite the gloomy situation from the global perspective, our Swedish companies have weathered the storm. This can be seen in the broad indices on the Stockholm stock exchange. I am convinced that "the Swedish model", i.e. our corporate governance model, works well as a catalyst to support a successful business community, in both good times and bad. Self-regulation provides a nimbler regulatory process, effective market-adapted rules with limited negative effects and the ability to solve matters quickly in advance by consulting the Swedish Securities Council.

When it comes to describing the themes that the Board has focused on in the past year, they will be familiar: the strengths and successes of the Swedish corporate governance model, which is strongly based on self-regulation; but also the worries caused by various activities within the EU bureaucracy and the European Commission, which in its zeal to bring about harmoni-



sation seeks to control corporate governance matters in detail, despite the fact that it has so far not been possible to harmonise underlying company law. Each member state has its own company law model, and this is a principle that I have great respect for and believe that we must continue to safeguard.

In Sweden, we have chosen self-regulation over legislation when it comes to essential components of corporate governance, which creates flexibility for companies in an increasingly competitive global market. Instead of sitting and waiting for the legislators to change the rules, self-regulation means that you apply the Swedish Corporate Governance Code either by simply complying with it or by explaining what rules you choose not to comply with, why you deviate from them and what you do instead. Both options are equally correct. This corporate governance model is applied in essentially the same way by our Nordic neighbours. We continue to work in our sister organisations in the region to strengthen the

Nordic corporate governance model within the European Union by continuously exchanging experiences and knowledge regarding common issues and utilising our combined size and strength by acting as a united region when we need to “nip things in the bud” when it comes to clumsy proposals from the EU and the Commission in the field of corporate governance.

When we ask the market about the Code and self-regulation, the perception is that it works extraordinarily well. This means that there is value in not proposing revisions too often, but rather allowing the Code to function in the market for as long as possible in order to provide stability and predictability over a long period. However, the world around us is changing and some issues may need to be examined a little more deeply in order to supplement the Code. The most recent revision of the Code began in 2018, and the current version came into effect on 1 January 2020. The increased focus on sustainability in all its dimensions means that we see that the Code may need to be supplemented with a little more clarification in this area. The Board therefore intends to begin a review of the Code in the autumn of 2022 by seeking views on specific issues, including through roundtable discussions with various stakeholder groups.

Gender balance on boards and senior management teams has been a hot topic of discussion for many years. The Board monitors developments in the Swedish corporate sector closely, in collaboration with the stock exchange. In October 2021, the Board also wrote an open letter urging nomination committees in all Swedish listed companies to continue to focus on gender balance ahead of the 2022 annual general meeting season. Special attention was given to newly listed companies, which have not been quite as successful in achieving the objectives set. The issue also came to the fore when the European Commission revived its previously blocked proposed directive on gender quotas on the boards of listed companies, with France being the driving force. The Board has therefore produced updated statistics regarding gender balance in listed companies, calculated in accordance with the guidelines in the proposed direc-

tive, and contacted the Ministry of Justice to show the work done by self-regulation in the area and to ensure a common view on how the rules regarding exceptions are applied and how the statistics are calculated. This work will continue.

It is with great pleasure and satisfaction that we note that our parent association, the Association for Generally Accepted Principles in the Securities Market, together with the Stockholm Centre for Commercial Law at Stockholm University, has initiated the establishment of a research institute in the field of corporate governance. The institute will conduct applied research and education on the subject in order to support the Swedish corporate governance model. The Board, as well as the other non-profit bodies that make up the Association, sees great value in working together with the institute, for example to produce more information and data to promote our corporate governance model internationally.

The more operational issues that the Board has worked on over the past year are covered by Executive Director Björn Kristiansson’s foreword below. The Board continues to work methodically with the Code and the health and welfare of self-regulation to ensure a well-functioning model that is stable and predictable and that provides scope for flexibility in how different companies can exercise corporate governance without breaking regulations - our Swedish corporate governance model is well worth defending. ◀

Stockholm, June 2022

Gun Nilsson

Chair of the Swedish Corporate Governance Board

A word from the Executive Director

The work of the Swedish Corporate Governance Board this year has been heavily influenced by the European Commission's proposal regarding sustainable corporate governance, and the subsequent proposal on corporate sustainability due diligence, where some of the previously criticised corporate governance elements still remain. This will continue into 2022, but we are hopeful of being able to change the proposal in the direction we want it to go, perhaps during the Swedish Presidency of the European Union. This will mean, for example, removing the proposals that seek to change the purpose of a company's operations and the individual responsibilities of board directors. We have also had to revive the issue of gender quotas on the boards of listed companies, where the Commission has activated a proposal which had lain dormant for almost ten years. At our annual corporate governance seminar, which this year will take place on Tuesday 11 October, we will discuss these issues further, and in particular try to look at what the purpose of corporate governance regulation is and should be. The seminar will be held digitally, and we can already promise an interesting and fruitful panel debate on this topic.

Even though the pandemic no longer impacts life in the same way as before, the temporary rules for shareholders' meetings without shareholder attendance will continue to apply in 2022. Before 2023, when the rules expire, careful consideration must be given to the efficiency benefits that can be achieved in some cases, for example through remote and postal voting, to offset the lack of in-person interaction between executives and shareholders, which has been a key feature of Swedish and Nordic annual general meetings. This could be the case for certain types of issue at extraordinary general meetings, but that would require changes to the legislation.

As we have previously reported, the Board was delighted to hand over all regulations other than the Swedish Corporate Governance Code to the newly established Swedish Securities Market Self-Regulation Committee, (Aktiemarknadens Självregleringskommitté, ASK), under the leadership of former Corporate Governance Board member and experienced lawyer Eva Hägg. As a sister organisation to the Board, ASK will oversee the rules concerning generally accepted practice in the



Swedish stock market, i.e. the Remuneration Rules, the Takeover Code and the rules for private placements in listed companies, and not the Corporate Governance Code. ASK and the Board continue to share a (now expanded) secretariat, which will ensure efficient coordination of activities.

It is of the utmost importance for the Board that we have a continuous dialogue with listed companies and their managements, boards and owners so that they are as up to date about our work and our initiatives as we are about what issues are at the top of these stakeholders' agendas. This is not just the case when we are considering revisions to the Code and holding roundtable discussions on the subject, or at our corporate governance seminar on topical corporate governance issues. Especially at a time like this, when in-person meetings have more or less been abandoned, we need to gather relevant input from the Code users in other ways. We therefore encourage you to contact us via e-mail or telephone if there is anything you would like to ask or discuss so that we can ensure that our work is conducted in the best possible way. ◀

Visby, June 2022

Björn Kristiansson
Executive Director

I. ACTIVITY REPORT

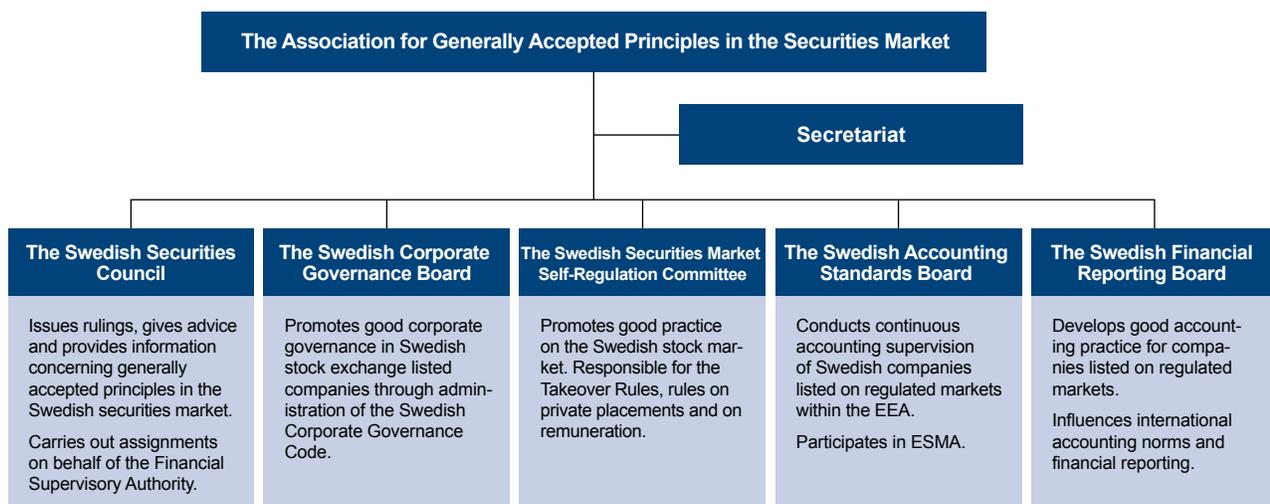
This part of the annual report describes the work of the Swedish Corporate Governance Board during corporate governance year 2021–2022 and discusses current issues regarding the Swedish Corporate Governance Code and Swedish corporate governance in general.

The Mission of the Swedish Corporate Governance Board

The Swedish Corporate Governance Board is one of five bodies that constitute the Association for Generally Accepted Principles in the Securities Market, an association set up in 2005 to oversee Swedish self-regulation within the securities market. The other four bodies in the association are the Swedish Securities Council, the Swedish Financial Reporting Board, the Swedish Accounting Standards Board and, since 1 July 2021, the Swedish Securities Market Self-Regulation Committee (Aktiemarknadens Självregleringskommitté, ASK). The principals of the Association are nine organisations in

the private corporate sector. See the illustration below and www.godsedpavpmarknaden.se for more details.

The original and still primary role of the Board is to promote the positive development of Swedish corporate governance, mainly by ensuring that Sweden constantly has a modern, relevant and effective code for corporate governance in stock exchange listed companies. The Board also works internationally to increase awareness of Swedish corporate governance and the Swedish securities market, and to safeguard and promote Swedish interests within these fields. In May 2010, the





role of the Swedish Corporate Governance Board was widened to include responsibility for issues previously handled by Näringslivets Börskommitté, the Swedish Industry and Commerce Stock Exchange Committee, namely to promote generally accepted principles in the Swedish securities market by issuing rules regarding good practice, including rules concerning takeovers and other areas as required. The Board has issued rules on private placements in listed companies and in 2020 it presented a set of rules concerning remuneration. These responsibilities have now been taken over by the Swedish Securities Market Self-Regulation Committee.

The role of the Board in promoting Swedish corporate governance is to determine norms for good governance of listed companies. It does this by ensuring that the Swedish Corporate Governance Code remains appropriate and relevant, not only in the Swedish context, but also with regard to international developments.

The Board is also an active contributor to international forums, including the European Union, promoting Swedish interests in the field of corporate governance. Another area of continued importance for the Board in

recent years is our role as a referral body on corporate governance issues.

The Board has no supervisory or adjudicatory role regarding individual companies' application of the Code. Ensuring that companies apply the Code in accordance with stock exchange regulations and the Annual Accounts Act is the responsibility of company auditors and the respective exchanges. The responsibility for evaluating and judging companies regarding their compliance or non-compliance with individual rules in the Code, however, lies with the actors in the capital markets. It is the current and future shareholders 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.

Interpretation of the Code is not a matter for the Board either. This is the responsibility of the Swedish Securities Council, Aktiemarknadsnämnden, which issues rulings on request. This is discussed in detail later in this report. 

The work of the Board during the year

In 2021, the Board initially consisted of Arne Karlsson (Chair), Eva Hägg (Deputy Chair), Karin Apelman, Håkan Broman, Göran Espelund, Louise Lindh, Gun Nilsson and Marianne Nilsson, as well as Executive Director Björn Kristiansson. At the parent organisation's annual meeting in June 2021, Arne Karlsson left the Board and Gun Nilsson was appointed to the position of Chair. In October 2021, Mats Isaksson, formerly Head of Corporate Governance and Corporate Finance at the OECD, was appointed to the Board. Additionally, Andreas Gustafsson continued as a co-opted member of the Board. The Board held four ordinary meetings during the year. Discussion and consultation also took place by e-mail and telephone when required, and a number of meetings of sub-committees and working groups were held.

The Board's work during the year is summarised below.

Strategy

In 2016 and 2017, the Board implemented a major strategic project to discuss and develop the Board's activity plan and priorities for the coming years. The Board had not previously had a comprehensive strategy document. In May 2017, the Board adopted Strategy 2017–2020. The next step was to operationalise this strategy document, and this operationalisation plan has now been integrated into the work of the Board. The Board has continued to assess its role in influencing the issuing of corporate governance norms by the EU and how the ongoing collaboration between the Nordic countries can be expanded.

Communication

In 2019, the Board adopted an updated communication plan, which included improvements to the Board's website to give it a more modern appearance and make it easier to navigate. Additionally, the Board resumed its tradition of annual corporate governance seminars, and the first in this series of seminars was held in Stockholm on 17 September 2019. Due to the pandemic, the 2020 seminar was postponed until 18 May 2021. The open seminar was conducted virtually, with around 200 participants. After the Chair of the Board, Arne

Karlsson, opened the seminar, a panel discussion was held on the impact of different corporate governance models and culture on the work of boards of listed companies. In addition to Arne Karlsson, the panel comprised Jim Hagemann Snabe, Chair of the Board of Siemens and AP Møller–Mærsk, and Leif Johansson, Chair of the Board of Astra Zeneca. After the panel discussion, the Executive Director of the Corporate Governance Board, Björn Kristiansson presented the Board's white paper, followed by the seminar's second panel discussion, with the participation of Mats Isaksson, former Head of Corporate Governance and Corporate Finance at the OECD, Jesper Lau Hansen, a professor at the University of Copenhagen, and Maija Laurila, Head of the Company Law Unit, DG Justice and Consumers at the European Commission.

Monitoring the Code and Swedish corporate governance

In order to monitor that the Code is working as intended and to ascertain whether any modifications to the Code should be considered, the Board regularly conducts a variety of surveys on how the rules of the Code are applied in practice. The most important of these is its examination of Code companies' corporate governance reports and the corporate governance information on companies' websites, which the Board has carried out every year since the original version of the Code was introduced in 2005. Since 2015, this annual survey has been conducted on the Board's behalf by SIS Ägarservice and Fristedt Consulting.

The results of the latest survey are presented in Section II of this report.

Revision of the Code

As well as its annual examination of companies' corporate governance information, the Board continuously monitors and analyses how companies apply the Code through dialogue with its users 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 monitors the need for limited modifications to the Code or for more general reviews of the entire Code.

A major revision of the Code took place in 2019 and the updated Code came into force on 1 January 2020. This version of the Code is the one that currently applies.

Gender balance on the boards of stock exchange listed companies

Since its introduction, the Swedish Corporate Governance Code has stipulated that listed companies are to strive for equal gender distribution on their boards. In their explanations of their proposals and nominations, nomination committees are to consider the Code's rule on gender balance.

In 2014, the Swedish Corporate Governance Board issued an Instruction which contained several initiatives for achieving improved gender balance on the boards of listed companies, and this came into force on 1 January 2015. The Instruction was then implemented into the Code as part of the 2015 revision.

The Corporate Governance Board initially conducted an assessment of gender balance on the boards of listed companies twice a year – at the beginning of January, ahead of the annual general meeting season, and in July, when the annual general meeting season is over. Since 2016, the Board has conducted this assessment just once a year, in early July. The information acquired from these assessments is available on the Board's website, www.bolagsstyrning.se. The statistics for the past year refer to the figures as of 10 June 2021 and 10 June 2022. The latest results are available on the Board's website.

Rules on generally accepted principles in the Swedish securities market

In its role of promoting generally accepted principles in the Swedish securities market, the Swedish Corporate Governance Board is to:

- monitor the application of rules, including those concerning takeover bids,
- monitor legislation and other regulation, as well as academic research into stock market issues in Sweden and internationally,
- and, based on the above, devise any new rules or

propose any changes to existing rules that are deemed appropriate and ensure that these have the support and acceptance of the parties concerned.

As outlined above, these responsibilities were taken over by the Swedish Securities Market Self-Regulation Committee, (Aktiemarknadens Självregleringskommitté, ASK), on 1 July 2021. The Swedish Corporate Governance Board will therefore no longer handle these matters. Below is a summary of the Board's work with these issues before they were transferred to the Committee.

Takeover Rules

The Board did not introduce any changes to the rules governing takeovers on the Nasdaq Stockholm and NGM markets in 2021. The Board itself issued equivalent rules for the First North, Nordic SME and Spotlight Stock Market trading platforms.

Rules on private placements in listed companies

The Swedish Corporate Governance Board has issued one recommendation regarding private placements in listed companies. The recommendation applies to placements announced on or after 1 January 2015.

The recommendation states that rights issues continue to be the preferred option for cash issues. On condition that it is permissible according to company law, i.e. it is objectively regarded as in the shareholders' interest to deviate from preferential rights, it is also normally acceptable with regard to generally accepted principles in the stock market that a cash issue deviates from the shareholders' preferential rights. Special attention must be paid, however, to ensure that no unfair advantage to any shareholders occurs that is to the detriment of other shareholders. The recommendation also states that any issue price that is set in a competitive manner is acceptable from the perspective of generally accepted principles in the stock market.

The Board accepts that this recommendation is fairly general in nature. In most cases, however, there should be no doubt about whether a new share issue or private placement is compatible with the recommendation or not, but should any doubts arise, the Board assumes that the matter of whether the share issue contravenes the recommendation will be submitted to the Swedish

Securities Council for a ruling. The Board and the Council will monitor developments in this area and the Board is prepared to clarify the recommendation further if necessary.

In its ruling AMN 2016:28, the Council declared that the Board's recommendation expresses what in some respects is good practice in the securities market for cash issues of shares, warrants and convertibles in limited companies whose shares are admitted to trading on a regulated market or traded on First North, Nordic SME or Spotlight Stock Market trading platforms. The scope of the recommendation coincides with the scope of AMN 2002:02. The Council's ruling AMN 2016:28 confirmed that ruling AMN 2002:02 can now be considered to have been replaced in its entirety by the Board's recommendation. A prerequisite for whether a private placement is to be considered compatible with good practice in the stock market is therefore that the instructions in the recommendation are observed.

After some discussion on the application of the recommendation with representatives of the marketplaces and a number of market actors, no specific need for a revision of the recommendation was identified. However, the Board wishes to provide the following clarifications regarding the application of the recommendation:

The first clarification concerns the possibility for existing shareholders who will receive an allocation in a private placement to be able to vote at a shareholders' meeting that makes a decision on the placement. The recommendation does not prohibit these shareholders from participating in the vote, but the question of whether such owners themselves consider it appropriate to exercise their right to vote or not should be decided by the owners themselves. Whether a certain majority level has been achieved among other owners can be a factor in some cases, for example when determining whether conditions exist for an exemption from the obligation to make a mandatory bid.

The second clarification concerns the recommendation's requirement that the company inform the shareholders and the stock market clearly and in detail about the reasons for the deviation from the shareholders' preferential rights in the press release on the company board's proposal or decision regarding the issue, as well as explaining how the price was or will be determined

and how the board has ensured or will ensure that it has set an appropriate market-rate price. In the view of the Corporate Governance Board, it is of the utmost importance that companies comply with the requirement for detailed and clear information to ensure that trust in the company, and in the longer term the stock market, is not eroded.

The Swedish Securities Council has subsequently issued ruling AMN 2021:41, which states that the Council has repeatedly noticed a certain casualness in the market when deciding on private placements, and therefore reiterates the importance of companies giving full consideration to the Corporate Governance Board's recommendation, both its letter and its purpose. Preferential issues are, as also stated in the recommendation, the primary rule within the law and private placements are a deviation from this main rule. It is therefore not compatible with the recommendation to decide on a private placement without due analysis of the conditions for conducting a rights issue. In the opinion of the Council, good practice requires that the company board clearly report to the shareholders its reasoning when it decided to deviate from the primary rule that a new issue should take the form of a rights issue, regardless of whether the issue has been decided on by the shareholders' meeting or the board itself.

Recommendation on remuneration to company executives

In June 2019, new provisions in the Swedish Companies Act came into force. Among these was a requirement for listed companies to produce and approve remuneration guidelines and remuneration reports for certain senior executives. The same legislation also introduced an exception to the "Leo rules" in chapter 16 of the Swedish Companies Act, according to which minor transfers of shares in subsidiaries were excluded from the scope of these rules.

One issue that arose in connection with the implementation of the updated Shareholders' Rights Directive and the latest Revised Code was whether the Board should take a comprehensive approach to self-regulation regarding remuneration and incentive programmes, where the latter was mainly regulated by the Swedish Securities Council's rulings on good practice. Therefore,

in 2020, the Board began work on breaking out parts of existing self-regulation in this area from the Code and the Swedish Securities Council's accepted practice to form a coherent set of rules issued by the Board.

The new Remuneration Rules came into force on 1 January 2021 and replaced previous self-regulation regarding remuneration to company executives and share and share price-related incentive programmes. The rules also contain certain provisions that supplement the rules in the Swedish Companies Act on remuneration guidelines and remuneration reports. The existing Code rules on remuneration, remuneration principles and remuneration reports, with certain changes, have been moved to the Remuneration Rules, whereby the Code's rules regarding these matters no longer apply. In the case of incentive programmes, the Remuneration Rules entail a codification of current accepted practice. The proposed new rules were drawn up by the Board in close consultation with a broad reference group.

Listed bonds

After market actors observed and alerted the Board to a possible need for further self-regulation regarding the market for listed bonds, the Board commissioned Wilhelm Lüning and Mikael Borg to investigate the issue in more detail in 2018. Lüning and Borg joined an informal group of experienced people representing investors, banks and issuers and gathered information from a broad range of market actors. The work resulted in a final report to the Board in February 2021. This report contains new proposals for self-regulation regarding listed bonds in the form of a number of principles, as well as proposals on future principal ownership and demarcation against the standard terms issued by the Swedish Securities Markets Association.

On 11 February 2021, the Board decided to submit the implementation of the principles to the Swedish Securities Markets Association for further consideration, with the proviso that it is the Board's expectation that issuers and lenders/investors are allowed participate in the continued work with this matter. Following feedback from the Swedish Securities Markets Association, the Board has referred the matter to the Swedish Securities Market Self-Regulation Committee.

Referrals etc.

A key role of the Swedish Corporate Governance Board is as a referral body for legislation and the work of committees of inquiry in the field of corporate governance, concerning both the development of rules in Sweden and various forms of regulatory initiative from the EU.

The referral work of the Board has increased each year, not least with regard to regulations from the EU. This is because the European Commission has been intensifying its work to expand and harmonise regulation of corporate governance within the European Union in the wake of the financial crisis. This has led to a series of recommendations, green papers, action plans and proposed directives on various aspects of corporate governance in different sectors in the past seven years.

In 2021, the Board submitted written comments on matters such as the Swedish Securities Markets Association model conditions for corporate bonds and on several occasions provided comments pertaining to the European Commission's initiative on sustainable corporate governance and the proposed Directive on Corporate Sustainability Due Diligence.

All the Board's statements and formal comments can be found on the Board's website, www.bolagsstyrning.se.

Sustainable Corporate Governance

In December 2019, the Commission published the European Green Deal initiative, (COM (2019) 640 final), with a number of principles aimed at making Europe climate neutral by 2050. In July 2020, a Roadmap was published together with an Inception Impact Assessment, with the aim of returning with EU legislation on sustainable corporate governance. The initiative was based on a study carried out by EY Italy on behalf of the Commission. According to the study, there was evidence that European companies do not act sustainably, which according to the study is because the tasks of the board and the company's interests are interpreted narrowly and in a way that prioritises short-term maximisation of shareholders' profits. The study stated that investors also have a short-term interest and that companies lack a strategic perspective with regard to sustainability. Among other things, companies do not identify and manage relevant sustainability risks. Furthermore, the remuneration of company boards leads to short-termism

instead of focus on the company's long-term value creation. The current composition of boards does not enable a shift towards sustainability, and the corporate governance framework does not include the long-term interests of a company's other stakeholders. Finally, there is no scope for holding board members personally responsible for acting in the company's long-term interest. The proposed solutions to these problems included extending the purpose of a company's operations to include other stakeholders and making boards directly accountable to these stakeholders.

The study was rejected by corporate governance stakeholders from across Europe, including the Swedish Corporate Governance Board, as completely unusable as a basis for legislation, as the conclusions drawn could not have been based on this poorly conducted study but had already been determined in advance. Despite the massive criticism, the Commission chose to proceed with a formal consultation, which ended on 8 February 2020. This consultation was also widely criticised, not least because the questions were designed in such a way that no answers other than those corresponding to the pre-set tests that the Commission wished to have confirmed could be provided.

Since the winter of 2019, the Board has been actively working with other stakeholders, not only in Sweden and the Nordic region, but also across Europe, to prevent the Commission from implementing legislation on the purpose of companies that would fundamentally change the foundations of company law. Fortunately, the Commission's own Regulatory Scrutiny Board, an internal body to prevent substandard legislative proposals being presented by the Commission, halted the legislative process not just once, but twice, after which the Commission had to withdraw several of its proposals. However, some elements have been included in the proposal for a Directive on Corporate Sustainability Due Diligence, which was published in the spring of 2022. For further information, see Key Issues below.

International work

As in previous years, the Board was an active participant in international debate on corporate governance issues in 2020 and 2021, with the aim of promoting Swedish

interests and increasing knowledge and understanding of Swedish corporate governance internationally. The Board took part in several consultation meetings with representatives of the European Commission through its membership of the European Corporate Governance Code Network, ECGCN, a network of national corporate governance committees of EU member states. The ECGCN, (www.ecgcn.org), is not a formal cooperation, but the European Commission has granted it the status of a special group to consult on corporate governance issues within the Union.

The Board also contributes financially to the EU monitoring work of both StyrelseAkademien, The Swedish Academy of Board Directors, and ecoDa, the European Confederation of Directors Associations. In this way, the Board has access to information about ongoing developments in the EU and is also able to offer opinions on the work of the Academy and ecoDa.

Since 2018, the Board has been an active member of the Six Chairs Group, which consists of the chairs of the Board's equivalent organisations in the United Kingdom, France, Germany, Italy and the Netherlands, as well as the Chair of the Swedish Corporate Governance Board. Following a meeting of these code issuers, the group issued a statement on how companies' sustainability work should be regulated. The group calls for reflection on the part of the European Commission before introducing detailed sustainability regulation and for this type of regulation, where required, to be based on self-regulation. The full statement can be found on the Board's website, www.bolagsstyrning.se.

Nordic work

The Board is also an active member of a Nordic collaboration between the countries' code issuing bodies. The Nordic code issuers maintain regular contact. In addition to national situation updates, a standing item on the agenda for the meetings is work on Nordic principles for corporate governance. The purpose of this is to show the similarities between the Nordic corporate governance models in order to be able to exert greater influence in the EU and towards institutional investors in the stock market. ◀



Key issues

Corporate governance seminar

The Board held its most recent corporate governance seminar in May 2021. These annual seminars aim to present the work going on within self-regulation, highlight current issues, stimulate discussion on corporate governance issues in general and gather users' views on the Code and the Board's recommendations. The seminars are open to all.

This year's seminar will take place on 11 October at 13.30-17.00 via the e-meeting service Teams. In addition to a discussion of current issues in the field of self-regulation, this year's seminar will focus in particular on international regulatory forces and Swedish corporate governance from an international perspective. A debate on the purpose of corporate governance rules will be moderated by Board member Mats Isaksson, and panellists will include Jacob Wallenberg (Chair of the Board of Investor and Chair of the Confederation of Swedish Enterprise), and Serdar Çelik (Head of Corporate Governance at the OECD).

Continued Nordic cooperation and exchange of ideas and knowledge with other European corporate governance code issuers

The Board will continue to cooperate with other European rule issuers through ECGCN, the network of European national corporate governance code issuers, not least as this provides direct access to the EU officials responsible for designing the Commission's proposals on corporate governance matters.

The Board also looks forward to continued cooperation and discussion within the Nordic region through regular meetings. During 2022 we hope to be able to publish an updated version of the publication Corporate Governance in the Nordic Countries, which provides an overview of the common features of Nordic corporate governance

Sustainable corporate governance

The Board's is continuing its efforts to prevent the Commission from implementing the legislative initiatives that fall within the epithet sustainable corporate governance, i.e. changes to the purpose of listed companies' activities from long-term shareholder value to instead fulfilling the interests of all the company's stakeholders. Having failed to have its original proposal approved by its own Regulatory Scrutiny Board, in the spring of 2022 the Commission presented a proposal for a Directive on Corporate Sustainability Due Diligence. In addition to regulation regarding due diligence in supply chains, the proposal contained rules on remuneration to company executives and on the responsibilities of a company's board and management, taken from the previous proposal on sustainable corporate governance. Together with many other Swedish and foreign stakeholders, the Swedish Corporate Governance Board has strongly criticised these proposals, (see below in the Perspectives section of this report), but it remains to be seen whether the Commission will take this criticism on board.

Code review

During autumn 2022, the Board plans to begin round-table discussions with Swedish and foreign Swedish corporate governance stakeholders to investigate how the Swedish Corporate Governance Code is working and whether any improvements to the Code are required. The board estimates that this process will continue until the end of spring 2023, and that any revisions will take effect at the end of 2023. 

II. APPLICATION OF THE CODE IN 2021

The Swedish Corporate Governance 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 information published in annual reports, in corporate governance reports and on company websites. The results are summarised below. Also in this section, there is a presentation of the Swedish Securities Council's and the stock exchange disciplinary committees' approaches to Code issues.

Companies' application of the Code

Executive summary

This year's survey shows that companies' reporting on corporate governance issues continues its steady path of improvement in more or less all aspects. Companies have shown a high level of ambition when it comes to applying the Code. The number of shortcomings in the details of how companies report on their corporate governance in their corporate governance reports and on their websites is in line with the previous year, though a large number of new Code companies have been added, meaning that the proportion of companies with shortcomings continues to fall, maintaining the long-term trend. However, there is still room for improvement, as some companies still fail to provide all the information that is required by the Annual Accounts Act and the Code.

The number of deviations from the Code fell somewhat in 2021. This year's survey shows an decrease in the number of reported deviations in a smaller number of companies. Such a development can be interpreted both positively and negatively. The development is negative in the light of the Code's aim to make companies reflect on and bring transparency to their corporate governance. The comply or explain principle on which the Code is based assumes that corporate governance is something fundamentally individual to each company, and even if the behaviour of companies means that they apply the majority of the rules in the Code, there should exist a large number of individual solutions that are more suitable for those particular companies than the standard methods prescribed in the Code. If companies feel that they must adapt their behaviour in order to comply with the Code, innovation and initiative may be

stifled, to the detriment of the individual company and its shareholders. However, the development is positive in the sense that if the rules of the Code are respected, the standard of corporate governance within listed companies should be improved.

The survey continues to place particular emphasis on nomination committees' statements on proposed candidates to positions on the board of directors, not least with regard to the Code's requirement that listed companies strive to achieve gender balance on their boards. The number of nomination committees that explained their proposals clearly in relation to the Code requirement on gender balance is unchanged compared with the previous year.

Aims and methods

The aims of analysing how companies apply the Code each year are 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 of the annual surveys contribute to the continued improvement of the Code.

Since 2011, the survey has also examined companies' application of the rules concerning the reporting of corporate governance and internal controls, as well as auditor review of these reports, which were introduced into the Companies Act and the Annual Accounts Act in 2010. The aim of this part of the survey is to build up a picture of how companies report their corporate governance.

The basis for the study is companies' own descriptions of how they have applied the Code in the corporate governance reports that are required by the Annual Accounts



Act, in other parts of their annual reports and in the information on their websites. Since 2011, the survey has also examined whether the corporate governance information on companies' websites fulfils the requirements of the Code and whether corporate governance reports contain all the required formal details. No attempt is made to ascertain whether the information provided by the companies is complete and accurate.

As in previous years, the target group for the study was the companies whose shares or Swedish Depository Receipts, (SDRs), were available for trade on a regulated market and who were obliged to issue a corporate governance report as of 31 December 2021. Stock Exchange rules state that companies whose shares are traded on a regulated market run by the exchange are to adhere to generally accepted principles in the securities market, which includes applying the Swedish Corporate Governance Code.¹⁾ Up to and including 2010, foreign companies were not obliged to apply the Code. Following an Instruction issued by the Swedish Corporate Governance Board, which has since been incorporated into the Code, from 1 January 2011, foreign companies whose shares or SDRs are traded on a regulated market in Sweden are required to apply the Swedish Corporate Governance Code, the corporate governance code of the company's domicile country or the code of the country in which the company has its primary stock exchange listing.²⁾ If the company does not apply the Swedish Code, it is obliged to state which corporate governance code or corporate governance rules it applies and the reasons for so doing,

as well as an explanation of significant ways in which the company's actions do not comply with the Swedish Code. This statement is to be included in or issued together with the company's governance report or, if no such report is issued, on the company's website.

On 31 December 2021, there were 370 companies whose shares or SDRs were available for trade on a regulated market in Sweden. Of these, 358 were listed on Nasdaq Stockholm and 12 on NGM Main Regulated Equity. Of those listed on Nasdaq Stockholm, 18 have declared that they apply another code than the Swedish Corporate Governance Code, and these 18 companies were therefore not included in the survey. This meant that the number of companies actually included in the survey was 352, of which 340 were listed on Nasdaq Stockholm and 12 on NGM Main Regulated Equity. See Table 1.

Companies' reports on corporate governance

The Swedish Annual Accounts Act states that all stock exchange listed companies are to produce a corporate governance report.³⁾ The content of the corporate governance report is governed by both the Annual Accounts Act and the Code.⁴⁾ According to the Code, any company that has chosen to deviate from any rules in the Code must report each deviation, along with a presentation of the solution the company has chosen instead and an explanation of the reasons for non-compliance.

As in previous years, all the companies surveyed had submitted a formal corporate governance report, which

Table 1. Number of surveyed companies

	2021		2020		2019	
	Number	Percentage	Number	Percentage	Number	Percentage
NASDAQ Stockholm	358	97%	332	96%	328	98%
NGM Main Regulated	12	3%	13	4%	8	2%
Total target group	370	100%	345	100%	336	100%
Excluded ^{*)}	18	5%	18	5%	20	6%
Total companies surveyed	352	95%	327	95%	316	94%

^{*)} Companies excluded due to information not being available, delisting or primary listing being elsewhere.

¹⁾ See 6.1.1 of Nasdaq Stockholm's regulations for issuers and II.6 of NGM's issuer regulations.

²⁾ See the introduction to Section III of the Swedish Corporate Governance Code, Rules for Corporate Governance.

³⁾ See chapter 6, section 6 and chapter 7, section 31 of the Annual Accounts Act, (1995:1554).

⁴⁾ See chapter 6, section 6 and chapter 7, section 31 of the Annual Accounts Act, (1995:1554) and rule 10.1-2 of the Code

is mandatory by law. Three companies chose to publish their corporate governance reports on their websites only, which was the same number as the previous year.⁵⁾ Of the vast majority of companies which included their corporate governance report in the printed annual report, just under half included it in the directors' report, while the other half published their corporate governance report as a separate part of the annual report. See Table 2.

According to the Annual Accounts Act, a 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.⁶⁾ Three companies failed to provide an internal controls report this year. See Table 3. The Annual Accounts Act makes it a legal requirement for companies to report on their

internal controls. The internal controls reports vary in their scope, from short summaries within the corporate governance report to separate reports.

The third paragraph of Code rule 7.3 states that a company which has not set up an internal audit is to explain the company board's position on this issue and its reasons why in the report on internal controls. Of the surveyed companies, 20 per cent had conducted an internal audit, which is unchanged compared with the 2020 figure. Of the 80 per cent of companies that chose not to conduct internal audits, the boards of two companies have not provided an explanation for this. See Table 4.

Since 2010, auditor review of corporate governance reports is mandatory according to the Companies Act and the Annual Accounts Act.⁷⁾ Three companies had not

Table 2. How is the corporate governance report presented?

	2021		2020		2019	
	Number	Percentage	Number	Percentage	Number	Percentage
In the directors' report in the annual report	174	49%	159	49%	150	47%
A separate report within the annual report	175	50%	165	50%	163	52%
On the website only	3	1%	3	1%	3	1%
Unclear	0	0%	0	0%	0	0%
Total	352	100%	327	100%	316	100%

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

	2021		2020		2019	
	Number	Percentage	Number	Percentage	Number	Percentage
Yes	349	99%	325	99%	314	99%
No	3	1%	2	1%	2	1%
Partly	0	0%	0	0%	0	0%
Total	352	100%	327	100%	316	100%

Table 4. If it is clear from the report on internal controls and risk management that no specific auditing function exists, are the board's reasons for this explained in the report?

	2021		2020		2019	
	Number	Percentage	Number	Percentage	Number	Percentage
Yes, reasons presented	280	79%	257	79%	248	78%
No, no reasons presented	2	1%	3	1%	4	1%
Partial explanation	0	0%	0	0%	0	0%
Unclear	0	0%	0	0%	0	0%
Not applicable/ own internal auditor	70	20%	67	20%	64	20%
Total	352	100%	327	100%	316	100%

⁵⁾ This does not contravene the Annual Accounts Act or the rules of the Code. The Annual Accounts Act states that companies whose shares are traded on a regulated market are to produce a corporate governance report, either as part of the directors' report or in a document that is not part of the annual report. In the case of the latter, a company may choose to release its report either by submitting it to the Swedish Companies Registration Office together with the annual report or by publishing it only on its website. (The report must in fact always be made available on the company's website.) If the corporate governance report is not contained in the directors' report, the company may choose whether to include it in the printed annual report – this is not regulated by law or by the Code.

⁶⁾ See chapter 6, section 6, paragraph 2, point 2 the Annual Accounts Act, (1995:1554) and the third paragraph of rule 7.3 and rule 7.4 of the Code.

⁷⁾ The requirement for auditor review of a corporate governance report if it is included in the director's report or of the information otherwise published in the company's or group of companies' director's report can be found in chapter 9, section 31 of the Companies Act (2005:551). The requirement for the auditor review of the corporate governance report to be published separately from the annual report can be found in chapter 6, section 9 of the Annual Accounts Act.

reported that their corporate governance reports were reviewed by their auditors. See Table 5.

Reported non-compliance

Companies that apply the Code are not obliged to comply with every rule. They are free to choose alternative solutions, provided each case of non-compliance is clearly described and justified. It is not the aim of the Corporate Governance 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 some cases be achieved through other solutions than those specified by the Code.

Diagram 1 shows the number of surveyed companies that have reported instances of non-compliance since 2017. The proportion of companies that reported more than one instance of non-compliance in 2021 was just under seven per cent, which is one percentage point lower than in the previous year. This means that the remaining 93 per cent of companies reported a maximum of one deviation from the Code rules. The proportion of companies that reported a single deviation from the Code fell from 24 per cent to approximately 21 per cent. Approximately 72 per cent, or 255 companies,

Table 5. Was the corporate governance report reviewed by the company auditor?

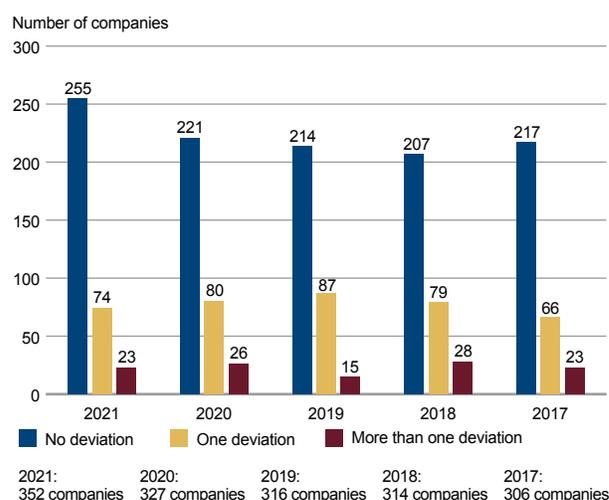
	2021		2020		2019	
	Number	Percentage	Number	Percentage	Number	Percentage
Yes	349	99%	320	98%	311	98%
No	3	1%	5	2%	4	1%
Unclear	0	0%	2	1%	1	0%
Total	352	100%	327	100%	316	100%

companies

Table 6. Reported non-compliance

	2021	2020	2019	2018
Number of companies reporting no deviations	255	221	214	207
Number of companies reporting deviations	97	106	102	107
Companies reporting one deviation	74	80	87	79
Companies reporting more than one deviation	23	26	15	28
Percentage of companies reporting deviations	28%	32%	32%	34%
Total number of companies	352	327	316	314
Number of reported deviations	133	144	119	146
Number of rules for which deviations reported	23	23	21	23
Average number of deviations per rule	5.78	6.26	5.17	6.35
Average number of deviations per company	1.37	1.36	1.17	1.36

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



reported no deviations at all in 2021, compared with 86 per cent of companies in the previous year.

In total, 133 deviations from 23 different rules were reported in 2021, which gives an average of 1.37 deviations per company reporting at least one deviation, which is in line with the long-term average.

A detailed breakdown of reported non-compliance is shown in Table 6.

Which rules do companies not comply with?

Table 7 shows the number of deviations per rule for which non-compliance was reported. The three rules for

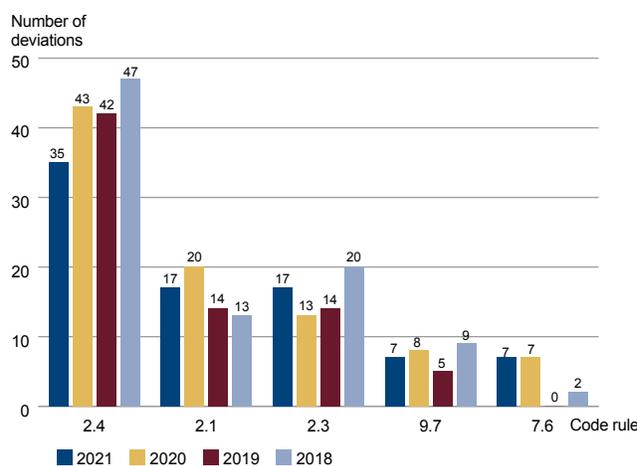
Table 7. Number of deviations from individual Code rules reported in corporate governance reports?

Regel	2021	2020	2019	2018
2.4	35	43	42	47
2.1	17	20	14	13
2.3	17	13	14	20
9.7	7	8	5	9
7.6	7	7	0	2
2.5	7	8	1	0
4.5	7	11	14	19
4.4	6	9	7	8
9.2	5	5	3	5
4.2	3	4	2	2
2.6	3	1	1	0
9.1	3	0	0	1
9.4	3	2	0	1
1.1	2	1	0	1
1.2	2	2	0	0
1.5	2	0	0	2
4.1	1	1	1	0
4.3	1	1	1	3
6.1	1	0	2	2
7.2	1	1	1	0
7.5	1	1	1	2
8.2	1	1	1	0
9.5	1	1	0	2
1.3	0	0	1	1
1.4	0	1	2	3
7.3	0	2	3	0
8.1	0	0	0	0
9.6	0	1	2	2
9.8	0	0	0	1
10.2	0	0	0	0
10.3	0	0	1	0

which the most companies reported non-compliance, see Diagram 2, are commented on in brief below.

As in previous years, the rule with by far the most instances of non-compliance was Code rule 2.4. A total of 35 Code companies, or 10 per cent, report some kind of deviation from this rule. Rule 2.4 states that members of the company board may not constitute a majority on the nomination committee and that the chair of the board may not be the chair of the nomination committee. If more than one member of the board is a member of the nomination committee, only one member may have a dependent relationship to major shareholders in the company. 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 appointed as chair of the nomination committee. The most common explanation for this was that the person concerned was a major shareholder and/or was deemed to be the most competent and therefore 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 a strong concentration of ownership, often with the general explanation that it would otherwise be difficult or impossible for a private individual to combine

Diagram 2. Instances of non-compliance per Code rule





the roles of major shareholder and active owner through participation on the board and on the nomination committee.

The rule with the next-highest frequency of non-compliance was rule 2.1, which obliges companies to have a nomination committee. This rule was deviated from by 17 companies, which is just under five per cent of all Code companies. The most common explanation for this was that these are companies whose major shareholder or shareholders did not deem it necessary to have a nomination committee because of the size of their own holdings in the company, e.g. as the result of a takeover bid where, for one reason or another, delisting of the company has not taken place. There has been some debate about whether it is compatible with generally accepted principles in the securities market to deviate from such a fundamental Code requirement, but with the exception of Chapter 10, the Code does not present any obstacles to companies who wish to deviate from any Code rule they choose, as long as their non-compliance is reported and explained.

Rule 2.3 concerns the size and composition of nomination committees, primarily with regard to committee members' independence. Also here, seventeen companies, (just under five per cent of all surveyed companies), reported deviation from this rule. In the majority of cases, the non-compliance involved the CEO and/or other members of the company's executive management being members of the nomination committee. The explanation given for this was 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 shareholder in terms of voting rights, meaning that the company did not comply with the rule that states that at least one member of the committee is to be independent in relation to the largest shareholder. Some nomination committees did not fulfil the Code requirement that they must comprise at least three members.

The content of corporate governance reports

For the eleventh consecutive year, the content of companies' corporate governance reports was examined

Table 8. The detailed content of corporate governance reports

	Yes	No	Partly
Does the report contain information on the nomination committee?			
Composition	328	24	0
Representation	316	35	1
Does the report contain information on board members?			
Year of birth	347	5	0
Educational background	335	6	11
Professional experience	319	26	7
Work performed for the company	352	0	0
Other professional commitments	343	3	6
Shareholding in the company	347	5	0
Independence	351	1	0
Year of election	248	4	0
	Yes	No	Partly
Does the report contain information on the board?			
Allocation of tasks	348	4	0
Number of meetings	352	0	0
Attendance	351	1	0

	Yes	No	Partly	Not - applicable	
Does the report contain information on board committees?					
Tasks and decision-making authority	313	2	0	37	
Number of meetings	303	5	3	41	
Attendance	284	25	1	42	
				Yes	No
Does the report contain information on the CEO?					
Year of birth				344	8
Educational background				333	19
Professional experience				311	41
Professional commitments outside the company				284	68
Shareholding in the company				348	4
Shareholding in adjacent companies				22	330

against the background of the requirements stipulated in the Annual Accounts Act and the Code. The Annual Accounts Act requires, for example, that companies report which corporate governance code they apply. All the companies surveyed this year stated that they applied the Swedish Corporate Governance Code. A general overview of the reports also showed that companies seemed to fulfil all the requirements set out in the Act.

Compliance with the detailed requirements of the Code concerning information⁸⁾ still shows room for improvement. See Table 8 for details. Almost 30 companies did not provide information on the professional experience of their board members, almost 40 companies did not state who had appointed the members of their nomination committee, and around 40 companies did not list the previous professional experience of their chief executive officer. Shortcomings regarding these requirements were pointed out in previous years. The percentage of companies not reporting the previous experience of the members of the board is seven per cent, which is the same as the previous year, while the proportion of companies failing to report the previous experience of the chief executive officer is also unchanged at just under 12 per cent. The proportion of companies that report whom members

of the nomination committee represent has increased by just over one percentage point compared with last year, from just over 88 per cent to just under 90 per cent.

Another Code requirement is that companies who have been found by the Stock Exchange Disciplinary Committee or the Swedish Securities Council to have committed breaches against the rules of the stock exchange or generally accepted principles in the securities market during the financial year are to report this in their corporate governance reports. All three companies to which this rule applied in 2021 provided information about the breach in their reports.

Corporate governance information on company websites

For the tenth time, an annual analysis of the corporate governance information on company websites was conducted.

Rule 10.3 of the Code requires companies to devote a separate section of their websites to corporate governance information. We are pleased to report that this requirement was fulfilled by all the companies surveyed. One of the questions in the survey concerns how easy it is to find corporate governance information on company

Table 9. Is corporate governance information easy to find on the company's website?

	2021		2020		2019	
	Number	Percentage	Number	Percentage	Number	Percentage
Yes	350	99%	325	99%	312	99%
Acceptable	2	1%	2	1%	4	1%
No	0	0%	0	0%	0	0%
Total	352	100%	327	100%	316	100%

Table 10. Detailed information on company websites

2021	Yes	No	Partly	Total	Percentage Yes
Current board members	352	0	0	352	100%
Current CEO	352	0	0	352	100%
Current auditor	349	3	0	352	99%
2020	Yes	No	Partly	Total	Percentage Yes
Current board members	327	0	0	327	100%
Current CEO	327	0	0	327	100%
Current auditor	324	3	0	327	99%

⁸⁾ Code rule 10.2.

websites. This assessment is subjective, but the hope is that an annual follow-up of this issue based on the same criteria each time will at least allow an examination of trends. The results of this year's survey of this area can be found in Table 9, which shows that over 99 per cent of the companies surveyed have easily accessible corporate governance information.

The Code rule 10.3 also contains a list of information required in the corporate governance sections of websites. As well as the company's ten most recent corporate governance reports and the auditor's written statements on the corporate governance reports, the company's articles of association are also to be posted. At the time of the survey, two companies did not fulfil the latter requirement, while the articles of association of the remaining 350 companies were accessible on the company websites. Additionally, the Code requires companies to post information regarding the current board of directors, the CEO and the auditor. This requirement regarding the auditor was not fulfilled by all companies. See Table 10 for more detailed information.

Nomination committees are also required to fulfil certain information requirements. The Code requires the nomination committee to present information on its candidates to the board on the company website when notice of a shareholders' meeting is issued.⁹⁾ Even if companies fulfil this requirement, their information on candidates is not complete – see Diagram 3. At the same time as it issues the notice of meeting, the nomination committee is also to issue a statement, which is also to be available on the website, with regard to the requirements in rule 4.1 that the proposed composition of the board is to be appropriate according to the criteria set out in the Code and that the company is to strive for gender balance.

Table 11. Nomination committee statements: Does the statement provide any explanation regarding gender balance on the board?

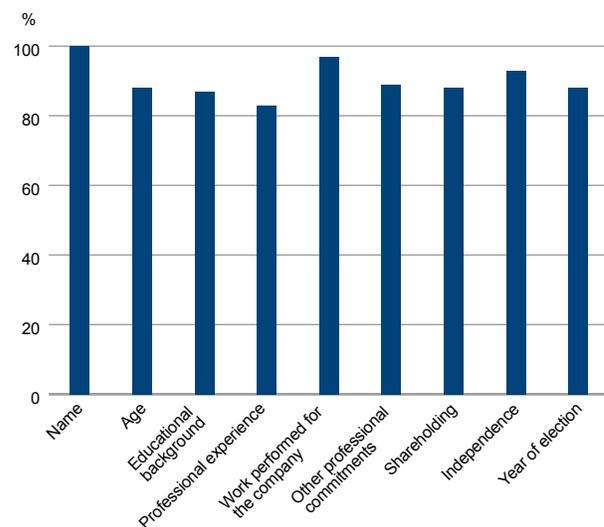
	2021		2020	
	Number	Percentage	Number	Percentage
Yes	323	92%	300	92%
No	29	8%	27	8%
Partly	0	0%	0	0%
Total	352	100%	327	100%

⁹⁾ See Code rule 2.6, paragraph 2.

Eight per cent of the nomination committees surveyed failed completely or partly to issue such a statement, which was a decrease of one percentage point compared with the previous year. In 2013, 58 per cent of companies' nomination committees failed to make any comment on gender balance, while in 2014, 24 per cent of the nomination committees did not comment on gender balance. The corresponding figure for 2015 was 18 per cent, 13 per cent in 2016, 11 per cent in 2017, nine per cent in 2018, seven per cent in 2019 and eight per cent in 2020. The positive long-term development does not seem to have continued in the past two years, as the proportion of nomination committees that did not comment on gender balance in 2021 was again eight per cent. Against the background of the debate on the composition of boards, especially the issue of gender balance and the question of whether quotas should be introduced, it is surprising that the percentage of nomination committees that commented on gender balance has not risen – see Table 11.

One of the aims of the introduction of the relevant Code rule was to avoid the introduction of quotas and instead allow nomination committees to explain how they had handled the issue of increasing the ratio of women on boards and bring the issue into focus. The Corporate Governance Board will continue to monitor gender balance on the boards of listed companies. 

Diagram 3. Content of the nomination committee's proposal regarding individual candidates to the board



Interpreting the Code

The Swedish Corporate Governance Board is the body that sets norms for self-regulation in the corporate governance of Swedish listed companies, but it does not have a supervisory or adjudicatory role when it comes to individual companies' application of the Code. The Board occasionally receives questions on how the Code is to be interpreted. Although it tries as much as possible to help companies understand what the rules mean, it is not the Board's responsibility to interpret how the Code is to be applied in practice. This is the responsibility of the market, after which the Board assesses how the Code has actually been applied and considers any revisions that may be required as a result. The Swedish Securities Council, whose role is to promote good practice in the Swedish stock market, is however able to advise on how to interpret individual Code rules. This occurs when companies who would like advice on interpretation request that the Council issue a ruling.

The disciplinary committees of the Nasdaq Stockholm AB and Nordic Growth Market NGM AB stock markets can also issue interpretations of the Code.

Over the years, the Swedish Securities Council has issued nine rulings in total concerning interpretation of Code rules:

- AMN 2006:31 concerned whether two shareholders were able to pool their shareholdings in order to be eligible for a seat on the nomination committee.
- AMN 2008:48 and 2010:40 dealt with the amount of leeway allowed to a board of directors when setting the conditions of an incentive programme.
- AMN 2010:43 interpreted one of the independence criteria in the Code, which covers board members' independence with regard to clients, suppliers or

partners who have significant financial dealings with the listed company.

- AMN 2011:03 examined whether a proposed salary increase for executives that was conditional on a sustained shareholding in the company needed to be referred to the shareholders' meeting.
- AMN 2015:24 examined whether a variable cash bonus arrangement for an executive of a listed company that was conditional on a sustained shareholding in the company needed to be referred to the shareholders' meeting.
- AMN 2017:05 concerned the extent to which the Code's rules on remuneration are applicable to an incentive programme in which the remuneration to executives in a subsidiary company is based on the performance of the subsidiary.
- AMN 2018:19 examined whether members of a nomination committee may participate in the preparation of proposals to the board pertaining to themselves and proposals regarding director remuneration to themselves.
- AMN 2018:48 concerned the structure of an incentive programme from a major shareholder.

The disciplinary committees of the Nasdaq Stockholm and Nordic Growth Market NGM stock markets did not issue any interpretations of the Code in 2021, and these two bodies have no tradition of issuing statements regarding interpretation of the Code. ◀



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 year, but also provides a forum for discussion and debate on current corporate governance issues, both in Sweden and internationally.

This year's report includes the Board's latest referral response regarding the Commission's proposed directive on corporate sustainability due diligence 



Stockholm, 23 May 2022

Feedback on the European Commission's proposal for a new Directive on Corporate Sustainability Due Diligence

With reference to the possibility to submit feedback in relation to the European Commission's proposal for a new Directive on Corporate Sustainability Due Diligence (the "**Proposal**"), the Swedish Corporate Governance Board (the "**Board**") would like to submit the following comments.

The Board advises against the inclusion of Articles 15, 25 and 26 in the Proposal, i.e. against all proposed corporate governance rules.

Article 15 requires companies to ensure that their business model and strategy are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5°C in line with the Paris Agreement. Irrespective of the importance of the targets of the Paris Agreement on a global level, it is impossible to operationalise these collective targets on an individual company level and therefore also impossible to use them in relation to variable remuneration. Targeted measures in areas such as the pricing of emission rights, sanctions for environmentally harmful behaviour, procurement requirements and so on would be more appropriate and more effective from the perspective of fighting climate change.

Articles 25 and 26 constitute an intervention in the internal decision making of the companies concerned and the responsibility at the individual level under the national company law of the member states. Corporate governance issues have thus far, for good reasons, not been subject to legal harmonisation within the Union. The well-functioning, well-established and co-existing governance models of the different member states should be safeguarded by continuing to leave regulation in this area to the member states.

Article 25 of the Proposal addresses the duties and responsibilities of the members of a company's board of directors and its chief executive officer, stating that the directors shall take sustainability matters into account in their decision-making. Already today, the board and management of a limited liability company must in all areas that are relevant to the company take into account in its decision-making the consequences for the company and its surroundings, including but not limited to the matters set out in the Directive. It is not appropriate to specify that certain aspects should be taken into account in the decision-making and thereby indirectly leave other relevant aspects deprioritised. There is a danger that this will result in a loosening of today's relatively stringent principles regarding corporate governance and the responsibilities of corporate bodies.

Article 26 of the Proposal stipulates that the members of a company's board of directors and its chief executive officer shall be individually responsible for putting in place and overseeing the due diligence actions and the due diligence policy. Imposing direct liability on the board and chief executive officer



SWEDISH CORPORATE GOVERNANCE BOARD

towards anyone who considers themselves to have suffered harm as a result of the company's actions would seriously impact a company's ability to attract experienced and knowledgeable executives. The requirements of Article 26 ought more properly be aimed at the company, whereby the national organisational model, as in all other matters, may then deal with how these responsibilities are to be handled with respect to internal corporate governance.

THE SWEDISH CORPORATE GOVERNANCE BOARD

Gun Nilsson
Chairman

Björn Kristiansson
Executive Director

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