

Logbook

The Exchange Advice regarding the obligation to keep a logbook has been revised and adopted to the rules of Law and to the guidance from Finansinspektionen (Swedish FSA). The guidance is available on www.fi.se. (Revised 2008)

1. Introduction

It has been mandatory since 2005 for a listed company to maintain a logbook containing information regarding persons that have access to insider information that is likely to materially influence the share price. The rules regarding logbook can be found in the Swedish Act (2000:1087) on Reporting Obligation for Certain Holdings of Financial Instruments. It is up to the company to decide whether an event could be considered to be “materially price sensitive” or not. According to the Swedish Legislation no difference shall be made between persons working for the company and persons outside of the company. Everybody that receives the specific information shall be included in to the logbook. Finansinspektionen has pointed out that it does not make any difference if the person receiving the information is included in the Insider Register at Finansinspektionen or not. Everyone who receives this kind of sensitive information shall be included in the logbook.

Including relevant persons into the logbook automatically raises their consciousness regarding the fact that they now possess insider information in accordance with the Swedish Act (2000:186) on Market Abuse. This thereby reduces the risk for information leakage and insider trading. If the suspicion would remain despite the logbook, the list of persons found in the logbook could provide the investigating authorities with valuable information.

“Logbook” means, in this context, an ongoing list of persons who have been informed of a price sensitive event, when they received this information, the information they obtained, and the manner in which they received the information. In the case of a Takeover situation, both the bidding company and the target company shall maintain their own logbooks.

The obligation to keep a logbook is also applicable regarding reoccurring events such as quarterly reports. For those events it is possible to establish a routine that can be used on an ongoing basis. The routine shall for instance state that person X always receives the information on day 0, person Y on day 2 and so on. With a routine like the example given it is sufficient that each person in the logbook receives a reminder on the day 0 that the quarterly report process now has started.

Experience suggests that the risk for information leaks increases as the date of publication of the information approaches. This is primarily due to the fact that the number of persons involved increases significantly in the final stage. In addition to advisors that have been involved in the process for a considerable time (banks, stockbrokers and lawyers), and the management of the involved company (managing director, chairman of the board of directors, managing director’s secretary, chief financial officer, and company’s in-house lawyer), normally the number of persons informed increases rapidly in the phase prior to publication.

According to the Exchange’s Information rules, the Exchange shall be informed of a proposed offer or other events that could be expected to be materially price sensitive for the listed company’s shares. Consequently, this should be done in due time before many people become involved, e.g. one or two weeks prior to publication of the offer. The notice can be done via a telephone call to the Issuer Surveillance department at the Exchange, phone number +46 8 405 70 50. The Exchange can thereby monitor share trading trends in order to detect possible signs of information leaks. In the event of an information leak, the Exchange suspends trading in the relevant company’s shares and other securities. In order for the suspension of trading not to be longer than necessary, the company

should be prepared to quickly publish information concerning the event. However, the logbook should continue to be maintained until the information has been made public.

2 Why the Requirement of a Logbook?

The Exchange introduced a requirement to maintain a logbook in take-over situations already in 2003. The requirement to maintain a logbook has been widened through legislation to apply not only in take-over situations but in all situations when the listed company handles information that is likely to materially influence the share price.

The background to the introduction of the rules regarding logbook is not only to make it easier for the investigating authorities to recapture an historic event and to strengthen the public trust in the capital markets. The rules are also a protection for the company and its personnel since an information leakage can cause a planned affair to fail.

The logbook procedure makes the persons involved automatically aware of the fact that they have been given access to non-published, price-sensitive information. Therefore, the persons involved shall be notified of the logbook and that they are included in it. In addition, they should be informed of the importance of confidentiality and that they are insiders and can not unauthorized reveal the information and that they now are prohibited to trade in the share.

At the same time, the procedure strengthens the internal discipline and reduces the risk that information will be disclosed to any third party that does not need the information and thus should not be in possession thereof. Employees who mistakenly become aware of the planned transaction are perhaps unaware of the importance of not passing on information to any third party and may thereby risk unwittingly damaging the company or even committing an offence against the Market Abuse Act.

In addition, the persons involved may, through contacts with the person who is maintaining the logbook, easily ascertain the identity of the other persons involved within the company and can discuss the transaction with such persons without the risk of unnecessarily increasing the number of persons involved.

3 Who shall maintain the Logbook?

The managing director is normally responsible for maintaining the logbook, although he or she may delegate and appoint a trusted person, for example, the managing director's secretary, the company's in-house lawyer, or chief financial officer, as responsible in practice for entering the notes into the logbook.

A logbook shall be kept for each event that may materially affect the share price. This means that the company in some situations may be required to maintain several different logbooks. The logbook shall be continuously updated through the process and undated as soon as possible but at the latest the day after the change has occurred. The logbook shall be saved for a minimum of five years after the latest time when it was updated.

Each company independently determines the manner in which it physically and practically wishes to enter notes in to the logbook. However, internal treatment of the logbook should comply with the requirements imposed regarding the company's accounting documents as regards to archiving and protection against unauthorized access. The manner in which the notes are maintained and how such are best protected is very much a matter of discretion and is determined by the person responsible for maintaining the logbook. However, the logbook should not be a risk factor per se.

The company's managing director should make it clear to advisors and the board of directors that the information disclosed is price-sensitive and confidential and that the company applies a logbook procedure and what is entailed thereby. To the extent that members of the board of directors make their own contacts regarding the transaction, such should be reported for entry in the logbook in accordance with the aforementioned regarding advisors' reporting. However, at the same time, it is important that the managing director consults the board of directors and advisors on the issue of to what extent it is appropriate that such persons disclose the information to a third person – perhaps it is unnecessary to involve additional persons in the plans.

Sometimes it may be practical for external advisors to maintain a separate “shadow logbook” of the persons in the organization who have been informed of the transaction. In such cases, the company's logbook only includes a note of the date on which the advisor was informed of the plans regarding the price sensitive event and received the engagement as advisor, and that the advisor is maintaining his or her own logbook of the persons that he or she informs. This shadow logbook may, where required, be appended to the company's own logbook. In other cases, the advisors should regularly report to the person responsible for maintaining the logbook concerning the contacts they undertake on their own initiative, so that the notes can thereby be entered into the logbook. If the company's advisors maintain a shadow logbook, the corresponding requirements should apply to the advisors as for the company as regards updating, the amount of detail, storage, protection against unauthorized access, etc.

4 Practical advices in order to avoid information leaks

The most important measure to avoid information leaks during negotiations concerning corporate acquisitions is to not inform more persons than is absolutely necessary. In addition, these persons must be very clearly informed of the importance of confidentiality. Notification of the fact that they have been entered into the logbook is such a very clear signal.

Below are more tips regarding security procedures in order to reduce the risk of information leaks:

- Prepare confidentiality agreements with the persons who are informed, both in-house and with the external advisors and other third parties. This may be of great value to the company if a dispute arises whereby some person denies that he or she has received information despite the fact that he or she has been noted in the logbook. A confidentiality agreement may be of value notwithstanding that the duty of confidentiality is covered in an employment agreement, the managing director's instructions, rules of procedure for the board of directors, current consultancy agreements, or other agreements with external advisors, for example, contractual tender agreements. This applies irrespective of whether the persons or companies in question are to be deemed as experienced in offer situations or not, and irrespective of whether the company has successfully engaged these parties in the past. A written confidentiality agreement should always be executed with the different types of subcontractors that handle documents and the company should also satisfy itself that such parties are aware of the purport of the agreement.
- Internal procedures: Computer screens should be turned inwards in offices so that they are more difficult for non-authorized persons to read. Wherever possible, avoid printing or copying documents containing information about an offer process. Always use a code name instead of the target company's actual name. Never leave material on desks. Lock it away or use a shredder. The waste-paper basket is no place for confidential information.
- External meetings: The location of meetings with representatives from other companies should be chosen with care.

- One (1) logbook should be maintained per project. Where a transaction relates to offers for more than one company it is thus appropriate to maintain several logbooks concurrently.
- Telephone technology: Avoid discussing materially price sensitive information on speaker phones and mobile phones in public places. Also avoid providing information about the current whereabouts of an employee who is out of the office if this can give a clue regarding the planned activities.
- Avoid making internal or external inquiries concerning information or documents of an unusual nature to persons who have not been informed of the transaction in question. This may give rise to speculation that something is going on. Such speculation may be fuelled where the information is required urgently.
- As far as possible, avoid providing information and material about the price sensitive information, for example, for translation or printing prior to publication. Where such is unavoidable, confidentiality must be ensured. If a document is to be e-mailed, a password should be used or the message should be encrypted.
- Prepare procedures for handling and storing of price-sensitive information in the company's computer so that unauthorized persons cannot access it.
- Do not forget that the exchange shall be informed in advance – prior to the publication of the information- regarding a takeover or other material price sensitive information. (See the Exchange's Information rules section 3.4.1 and 3.4.2)
- Constantly remind everyone involved of the importance of confidentiality. Do not assume that they are aware of this.

5 Confidentiality agreements – some examples

Set forth below are some different examples of the manner in which the confidentiality clause and the confidentiality commitment in a standard agreement with an external party, i.e. a consulting firm, may be drafted. In addition, an example of how logbook notes may be recorded is provided.

Confidentiality/Confidential information – example

Each party undertakes not to disclose to any unauthorized parties documents, particulars, or information in any form that concerns the internal affairs of the other party, this engagement, or other assignment in respect of which the disclosing party has reason to believe may be detrimental to the other party. Unauthorized persons shall also include employees of the party who are not participating in this engagement.

In the event that the parties execute a separate confidentiality undertaking, such undertaking shall constitute part of this consulting agreement.

Confidentiality commitment – example

I, the undersigned, _____, hereby make the following confidentiality commitment as a consequence of my involvement within the group.

Company name.

I hereby undertake not to disclose or release, either orally or in writing, any confidential information regarding activities and services within the company to any third party or to other unauthorized parties without the company's written consent, and to exercise absolute discretion, both internally

and externally, regarding the company's affairs which might come to my knowledge in connection with my assignment. "Unauthorized parties" means any party that does not need the information in order to carry out such person's work duties within the scope of their assignment.

I shall carefully comply with the applicable security provisions and shall refrain from disclosing information or discussing matters regarding the company's security systems and routines with unauthorized persons. In the course of my engagement, I am also obligated to report to the company any obvious breaches of security routines known to me.

Confidential information shall be deemed to include, inter alia, construction plans, drawings, programmed listings, timetables, products under development, correspondence, pricing and calculations, systems descriptions, contracts, customer lists, lists of prospects, product information, operating conditions, and business matters of any kind, other than those intended for public dissemination.

I also agree not to participate, either directly or indirectly, in the making of copies of confidential information or other unauthorized use of confidential information for my own or another person's profit.

Upon the conclusion of my engagement, I undertake to return to the company any material received including diskettes, CDs, and individual files that I have used during my engagement. My undertaking pursuant to this confidentiality commitment shall remain in force during the term of the agreement and for a period of two (2) years following the conclusion of my engagement with the company.

I am aware and acknowledge that it is vital to the company that I, as well as other employees, faithfully comply with this confidentiality commitment. In the event that I should breach this commitment, I shall compensate the company for any damage incurred as a result of the breach of the agreement.

Place: _____ Date: _____

Signature: _____

A confidentiality agreement may also be drafted in respect of the current transaction and presented in conjunction with informing employees or external parties.

Confidentiality agreement in respect of a company acquisition – example

To (name): _____

Stockholm (date): _____

Re: Project

You are hereby reminded of your obligation to hold in confidence the internal discussions we have regarding potential undertakings to be made in relation to the EU Commission in order to get approval to the acquisition of XYZ. The discussions we have regard non-public information. Disclosure of such information could have a negative influence on the course of the acquisition of XYZ and could have other negative consequences for the OWN COMPANY Group. The discussions might also influence the price of the OWN COMPANY share. Under these circumstances, you have an obligation to the OWN COMPANY Group not to disclose such information.

We ask that you confirm your understanding of the confidential nature of the discussions and your agreement not to disclose such information by signing the enclosed copy of this letter/document and returning it to me.

Knowledge of the discussions is limited to a very small group of people. That group may not be extended to include any other person without the concurrence of CEO/General Counsel/OTHER or me.

Xxx Yyyy

Title/position Approved (name): _____

Date: _____

Logbook notes – a few examples

Logbook regarding the Grodan Boll project

Opened on 11 November 2000.

Date Activity

11 Oct -00 8.30: Told XX (CFO) about the ideas for an offer for ZZ. Confidentiality agreement with XX according to appendix.

14.15: Appointed my secretary, YY, to be responsible for the logbook after YY signed the confidentiality agreement (appended).

12 Oct Lunch with PP (Chairman of the Board) at 12.30, at the VV Restaurant. Explained the ZZ deal.

14 Oct 8.15: Went through the ABC Investment Bank's offer together with XX regarding a ZZ-like assignment.

CEO e-mail to DD regarding ABC with the suggestion that we meet at their place for lunch on 15 October.