AN IMPROVED CLIMATE FOR IPOS FOR SWEDEN’S GROWTH

PROBLEM ANALYSIS AND PROPOSED ACTION

September 2013
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This is a translation of the Swedish report “Ett förbättrat börnoteringsklimat för Sveriges tillväxt – Problemanalys och förslag till åtgärder”. In the event of any conflict between the Swedish original and the English translation, the Swedish original shall prevail.
BACKGROUND AND SUMMARY

NASDAQ OMX Stockholm AB ("NASDAQ OMX" or the "Stock Exchange") has a unique infrastructure for raising capital and therefore serves a key function in society. The Stock Exchange contributes to increased growth and more jobs. This is the reason why, during the first six months of 2013, the Stock Exchange has conducted broad discussions with representatives of the business community aimed at producing a problem analysis enjoying broad support and a list of measures to improve the climate for IPOs in Sweden.

There is a substantial societal value in making it easier to invest in small companies. The growth of new Swedish small and medium-sized enterprises ("SMEs") is of fundamental importance for Sweden's future growth and capacity to create jobs.

SMEs have gradually increased in importance to the Swedish economy, and the creation of jobs in the sector has been very important for the Swedish employment market since the early 1990s. In the last 10 years, around 80% of all new jobs in Sweden have been created in companies with fewer than 50 employees. Sweden's large companies are, of course, still of fundamental importance for growth and job creation in Sweden. The flow of capital from the banking sector to SMEs has deteriorated since the financial crisis due to the new Basel III (CRD IV) rules, which have resulted in greater costs for the banks' own financing. An increase in the flow of capital to SMEs means improved possibilities for growth and the creation of new jobs. According to statistics from Statistics Sweden, over 99% of Sweden's companies are defined as SMEs. One of the Stock Exchange's primary functions is to make it easier for companies to raise capital.

The ultimate goal is to create an ecosystem for raising capital in which the Stock Exchange, private equity firms, retail investors, institutional owners, investment funds, and private owners and families together provide companies with the best possible conditions to finance growth and create new jobs.

In light of the above, in cooperation with a number of market participants, NASDAQ OMX has held a consultation process with a large number of stakeholders aimed at producing a problem analysis enjoying broad support and a list of measures to improve the climate for IPOs in Sweden. The consultation with stakeholders has been constructive and is valuable to the Stock Exchange in its work to provide a well-functioning and attractive marketplace for raising capital. This document constitutes the Stock Exchange's summary of these discussions and the conclusions that have been drawn.

Initially, five primary areas of focus were identified:

+ Corporate Governance and Rulebook for Issuers of Shares
+ Corporate Finance and Analysis
+ Share Trading
+ Owners: Structure and Rules
+ Institutional Owners
Based on these areas, groups of approximately 15 stakeholders from different parts of the market discussed problems and proposed measures.

These discussions have resulted, among other things, in a number of measures which the Stock Exchange intends to implement, while at the same time it is also clear that there are no simple, quick fixes which individually can improve the climate for IPOs in Sweden.

To begin with, one of the conclusions which bears emphasising is that one of the underlying causes which was often mentioned in the debate, namely the regulatory burden on listed companies, is important but cannot be considered the crucial problem. The fact that a company’s market capitalisation is often lower than its valuation in a private setting also appears to be a problem area, as is equally inefficiency in raising capital.

Consequently, based on the fundamental analysis, it is clear that there are certain problems and measures which NASDAQ OMX can and should address, primarily with respect to the rulebook and transparency. There are also a number of potential measures which need to be discussed with market participants, public authorities and legislators. It is also clear that some of these measures can be implemented relatively quickly while others require a more long-term process.

Measures which the Stock Exchange can implement in the short term include:

+ More flexible rules for quarterly reporting to reduce the administrative burden on companies.
+ Reducing the number of orders per trade through price structure changes aimed at strengthening public confidence in the Stock Exchange.
+ Introducing an auction procedure during the trading day to increase trading and interest in infrequently traded shares.
+ Creating a steering group for SMEs to safeguard the interests of this group.
+ Creating conditions for a simpler and quicker listing process.

One issue which the Stock Exchange needs to discuss further and investigate together with market participants is how the evaluation between investing in public and private companies can be balanced. Questions must be analysed such as whether having the opportunity to carry out a fundamental analysis prior to an investment decision is a decisive factor, and whether the declining number of analysts and analyses is a contributory cause. If this proves to be the case, the Stock Exchange should consider what can be done to improve this situation.

Similarly, public authorities and legislators must also be invited to the discussion table. For example, what must and can be done in the area of tax? The government’s proposed tax relief on investments by retail investors in SMEs is a good one, but we are inclined to believe that tax relief on investment in SMEs should apply to more types of investors who are prepared to invest in the long-term. It should also be considered whether to change the rules regarding investments by funds in SMEs.

Statistics based on IPOs on First North between 2006 and 2012 indicate that companies that listed their shares on First North on average increased their workforce by 36.5% annually after the IPO, as compared with average annual job growth of 1.5% for all private companies in Sweden. In the
United States, scientific studies have found that fast-growing start-up companies account for 10% of all new jobs created in the United States, despite the fact that they represent only 1% of all companies. Another study found that 92% of all jobs created in US companies occurred after the IPO of the company. Therefore, there is a substantial societal value in making it easier to invest in SMEs in a controlled and transparent manner. It is also important to note that the Stock Exchange's growth market, First North, has experienced positive listing activity. 106 companies have floated on First North since its launch in 2006, 18 of which were in 2011, 8 in 2012, and 10 to date in 2013.

First North was founded with the objective of acting as a springboard to the Stock Exchange for small growth companies, where they can be listed under somewhat simpler requirements and subsequently grow and transfer to the main market. Since its launch, nearly 30 companies have moved from First North to the main market. The conclusion that can be drawn is that the desire to float on the Stock Exchange is there, but that an increased inclination to invest is needed to achieve the desired interplay. The Stock Exchange also notes that when companies choose external financing, from a tax perspective share capital is disadvantaged in comparison with loans.

We are convinced that the Stock Exchange must continue to be a key infrastructure for raising capital. There are several reasons for this. The Stock Exchange offers independent financing and thereby the possibility to develop in one's own way. An IPO enables all institutional investors and retail investors to get involved. It creates engagement and loyalty. The Stock Exchange provides transparency, both for investors and the companies' customers.

We hope that the fruitful discussions we initiated can continue in a new phase in 2013, and that they will also include public authorities, legislators and other stakeholders. The discussions can then lead to a number of further measures to improve the climate for IPOs and thereby create better conditions for growth in Sweden.

A table is included as an appendix to this document which provides an overview of measures to be taken, specifies the party who is responsible for taking the measure, and specifies the date for implementation.
What is happening on other markets?

The decline in the attractiveness of the public environment has also been noted at global level. On many markets, measures have been initiated and, in some cases, implementation has also begun. The lowest common denominator for these initiatives is the conclusion that the public market has an important function for the future growth potential of companies by acting as a key instrument for the necessary raising of capital.

The following are examples of this:

+ The European Commission's proposal in MiFID II concerning the harmonisation and quality assurance of SME markets and the revision of the Transparency Directive, aimed at reducing the administrative burden on SMEs.

+ The Jobs Act in the United States, primarily aimed at promoting job creation by making it easier for growth companies to raise capital without having to fulfil all of the requirements attendant on being a listed company.

+ The London Stock Exchange setting up a High Growth Segment, aimed at making it easier for growth companies in the technology sector to raise capital on the stock exchange without fulfilling all of the listing requirements applicable on the stock exchange otherwise regarding e.g. the company’s financial history, the requirement for free float and number of shareholders, and corporate governance.

+ Euronext’s work on introducing what is referred to as the “Entrepreneurial Exchange”.
PROPOSED MEASURES

Attractiveness of the Stock Exchange
Enhanced research and data regarding the importance of the Stock Exchange to companies and the national economy

Background/Analysis

The Stock Exchange has been around for 150 years. A considerable portion of Sweden's welfare is based on large companies that were able to grow thanks to the opportunity they were afforded to raise capital on the Stock Exchange. In spite of this, there is a very limited amount of research and data available regarding the importance of the Stock Exchange and IPOs to Swedish companies and the Swedish economy.

Furthermore, the world has changed and the companies we see growing today have requirements and needs that are completely different to those of large companies. Therefore, what is needed is further research into how the Stock Exchange will be able to satisfy these needs, both now and in the future.

In the United States, considerably more research has been carried out concerning the importance of the stock exchange. Among other things, NASDAQ OMX has provided funding and access to databases in several large-scale projects which have produced the data set out in the introduction to this document.

It is also important that the research follows and evaluates the new initiatives launched in various parts of the world, such as the Jobs Act in the United States.

Possible solution:

The Nordic Foundation¹ focuses on providing support (through funding) to research relating to the importance of the stock exchange to the raising of capital by public companies and their growth.

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¹ The NASDAQ OMX Nordic Foundation (NASDAQ OMX Nordiska Börsstiftelsen) was set up by NASDAQ OMX Stockholm AB, NASDAQ OMX Copenhagen A/S and NASDAQ OMX Helsinki Oy to promote the development of the financial markets in Sweden, Denmark and Finland by providing support to research, development and other initiatives. All penalties imposed on companies or members are transferred to the Foundation.
Improved information and transparency vis-à-vis the media and retail investors

Background/Analysis

Many companies have felt that their relationship with the media has become more difficult to deal with after an IPO. They are uncertain as to what they should say and not say, and in some cases this has resulted in their completely avoiding talking to the media. This uncertainty has further increased due to a number of highly publicized trading halts.

Furthermore, the media has reacted to the trading halts, complaining that they restrict freedom of expression. Both groups regard a trading halt as a sanction and not as a measure to restore equality of access to information to ensure a fair market.

Surveillance of listed companies and implementation of trading halts by the Stock Exchange are governed by statute and regulations which, in our opinion, essentially work well. However, better information and guidance is required as to how the trading halts should be interpreted and what they mean for the relationship with the media.

Possible solution:

+ The Stock Exchange can further develop customised training programmes for listed companies and journalists, primarily for senior company management, and an area of particular importance is trading halts. The rules and procedures need to be explained to ensure that companies understand why the Stock Exchange implements trading halts and how they should act towards the media.

+ The Stock Exchange will produce a checklist which can be used by senior management as guidance when managing the provision of information in contacts with the media and analysts.

+ Certain aspects of the Stock Exchange’s advice on the Rulebook for Issuers of Shares have been misinterpreted, namely that selective information can be given to analysts. Therefore, the Stock Exchange has made certain clarifications to the wording concerning contacts with analysts. The Stock Exchange clarifies that the whole section relates to contacts with analysts and the media, and deletes the subsection which provides that “good arguments” can be provided selectively.

+ One of the reasons trading halts have occasionally given rise to uncertainty has been that the Stock Exchange and companies have not always managed to establish contact as quickly as they wanted to. To ensure accessibility, the Stock Exchange has extended the hours of service of its surveillance hotline. The hotline is now staffed 24 hours a day. The Stock Exchange has also asked companies to ensure that they are contactable at all times.
Active vs. passive management

Background/Analysis

An increasing number of funds currently apply an investment strategy which is based on tracking an index. The performance of the fund manager is deemed to be based on the same index, which means that fund managers optimise their investment strategy by replicating the composition of the index in their portfolio. This reduces the opportunities for new companies to attract investors, since, when the company is floated, it is not directly connected to a major index or is quite simply not big enough to have any impact on a particular index. Funds that are more active on the stock exchange and do not have an index as their primary benchmark are more inclined to support new companies at an early stage in the listing process, but these funds are in a minority.

Another development, which, to a certain extent, is also due to the rise in the increasing investment strategy of tracking indices, is for funds to invest less and less in SMEs and focus instead on companies listed on the Stock Exchange’s Large Cap. As stated above, it is primarily SMEs that create jobs. This further reduces the investor universe for a majority of the new companies which are floated on the Stock Exchange. Globalisation has also influenced how funds allocate their capital, with more capital being allocated to global investment funds managed by international funds, which means of course that less capital is allocated to promoting the growth of Swedish companies, and thereby the creation of jobs in Sweden.

In summary, due to the above, there is a risk that the capital allocation function of the marketplace will become ineffective because the capital is allocated based on the composition of an index instead of on the companies’ anticipated return and risk.

Possible solution:

It is fundamental that fund managers make more active decisions and invest in smaller companies. This may require changes to regulations that restrict the freedom of action for managers. We would also like to open up the possibility for a discussion and analysis as to changes in how fund managers are graded and remunerated.

The proposal regarding the AP funds in the pension system\(^2\) is troubling in this respect. The Report proposes the removal of the investment cap for unlisted shares, which is reasonable. However, this should be supplemented with the removal of the investment restriction of a low 2% for an individual listed company.

During the autumn, the Stock Exchange will be initiating a study with a global focus to identify measures to promote active management in preference to passive management. The study can then form the basis of continued discussions and possible action.

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\(^2\) Swedish Government Official Reports 2012:53
The road to the Stock Exchange

Advance rulings

Background/Analysis

Transparency and predictability in the listing process are essential to confidence in the market and among market participants. During the listing process, assessment questions sometimes arise as to the application of relevant rules and regulations and the principles on which the rules and regulations are based. These questions can, in individual cases, be difficult to answer clearly, for example due to the absence of any common practice in the particular area. Companies that apply for a listing on the Stock Exchange, and their advisers, need to know - as at early a stage as possible in the process - whether the listing requirements will be fulfilled.

Possible solution:

The Stock Exchange wants to introduce the possibility for applicant companies to request an advance ruling on substantive questions which are of material importance to the assessment of the satisfaction of applicable listing requirements. Providing for the possibility to receive an advance ruling will make the listing process more efficient.

Next step/procedure

The Stock Exchange will be initiating a procedure for introducing the possibility to obtain an advance ruling in a listing process. The aim is to introduce this on 1 January 2014. During the autumn, the Stock Exchange will make proposals for necessary changes to the rules and regulations. These proposals will then be the subject of consultation with the Listed Companies Association (Aktiemarknadsbolagens förening).
Reduced imbalance in knowledge about companies, public vs. non-public investments

Background/Analysis

The transition from the unlisted to the listing environment entails an adjustment for many companies. This is the case both for the company and for potential investors who are to buy shares in the company in the IPO. In a traditional IPO process, investors often have a limited amount of time to form an opinion of the company and its potential, while investors in unlisted companies are in some cases given the opportunity to carry out a more detailed analysis of the company, known as due diligence, as compared with a standard IPO. Due diligence provides a sound basis for discussions with the company’s management. In an IPO, a lot of time is spent on what are referred to as book building and road shows, where the senior management of the company present the company to potential investors. Since these aspects of the IPO process are lengthy, draw-out affairs, there is a greater risk of a less successful IPO. Furthermore, the focus of senior management is detracted from the core business over an extended period of time.

Due to the more limited analysis carried out on the company which is for sale via an IPO, a potential buyer may not be prepared to pay as much as a more well-informed buyer would pay, given the risk involved in having less knowledge about the company. There are no statutory rules preventing potential buyers from acquiring the same information about the target company irrespective of whether or not the company is to be listed or sold privately.

Possible solution

The traditional listing process can sometimes be insufficient to create the best conditions to enable the seller and the buyer to agree upon a mutually acceptable valuation of the company. What is required, therefore, is greater focus and awareness from all parties in order to improve communication on this issue.

Financial advisers should adapt the listing process to create conditions to ensure that, as far as possible, a selection of institutional investors obtain access to the same type of information as potential buyers of the entire company in a private environment. The provisions of Article 15(5) of the Prospectus Directive concerning selective material information about the issuer must be taken into consideration in this context. It is also important that the structures for the listing process are such as to increase the likelihood of a rise in the share price following the IPO.

The Stock Exchange intends to investigate the possibility of assisting SMEs at different stages with knowledge and tools in order to become more visible. This includes assistance in organising communication and corporate governance structures in a way that creates confidence and gives a stamp of approval similar to that of a listed company. The Stock Exchange will make premises and networks available to SMEs to meet investors on a regular basis. This might include regular meetings in cooperation with the private equity industry, where portfolio companies and potential investors can meet, to help build up knowledge and transparency gradually pending an IPO. This may include cooperation with, for example, Företagarna or Aktiespararna (the Swedish
Shareholders’ Association) to reach companies at an earlier stage and to reach investors throughout the entire country.

For the above to have any tangible effect, large institutional investors also need to take active responsibility for acquiring further knowledge, and also reviewing how they can invest more in SMEs within the scope of their overall mandate.

**Next step/procedure**

The Stock Exchange will initiate discussions with representatives of private equity firms, Aktiespararna and Företagarna in order, in the autumn, to present a proposed format and structure for cooperation as outlined above.
The requirement for free float and minimum number of shareholders

Background/Analysis

The Nordic region currently imposes a somewhat more restrictive free float and minimum number of shareholders requirement (i.e. the minimum percentage of shares that must be in public hands and the minimum number of shareholders a company must have in order to have its shares listed on a stock exchange) as compared with certain other European countries. It is a standard requirement in Europe that 25% of a company’s shares must be in public hands in conjunction with an IPO. However, there are examples of stock exchange segments with lower free float requirements, such as the London Stock Exchange’s High Growth Segment, which requires that 10% of shares be in public hands. As a rule of thumb, the Stock Exchange applies a 25% free float requirement provided there are at least 500 shareholders at the time of the IPO and each shareholder owns shares worth €1,000. Historically, the general public’s interest in and demand for IPOs has been strong and has complemented institutional demand well. However, for small companies, the costs and efforts required to involve a larger group of investors can be considerable. Another aspect is that the lead time involved in marketing an IPO can be reduced if a larger group of investors is not involved, which can be a good thing in a volatile market. The Stock Exchange believes that most companies will continue to choose to involve a larger group of investors in the listing process, but recommends flexibility so that companies don’t have to do so in certain cases. The trading in a new share is important and there are complements to including a larger group of investors. For example, the company can appoint a market maker to ensure there is orderly trading at all times.

Possible solution:

+ The 25% requirement should remain, but it should be clarified that there are exceptions to this rule if the Stock Exchange believes that circumstances are such that appropriate trading can take place within a limited period in the future.

+ The general rule requiring at least 500 shareholders should be removed as of 1 January 2014 to ensure that an offer can be made to a smaller group of investors.

+ The use of market makers should be encouraged by the Stock Exchange. The Stock Exchange should adopt a policy, as of 1 January 2014, relating to the setting of prices by market makers aimed at promoting liquidity, among other things.
Life as a listed company

Quarterly reports

Background/Analysis

The overhaul of what is referred to as the Transparency Directive has brought up the issue of the requirement for listed companies to produce quarterly reports. In the revised Transparency Directive, the requirement to submit interim reports and/or quarterly reports has been removed for listed companies. However, under domestic law Member States can make it mandatory to submit quarterly or interim reports but subject to certain restrictions, for example the requirements must not be disproportionate and it must be investigated how they impact on the possibilities for SMEs to carry out an IPO. There is nothing to prevent stock exchanges imposing their own requirements in their rules. One of the aims of the overhaul of the Transparency Directive was to reduce the disproportionate administrative burden on listed companies, particularly SMEs.

Many companies have said that it is too burdensome to produce quarterly reports. Equally, investors, not least retail investors, think that the reports are necessary. For the Stock Exchange, transparency is fundamental. Therefore, it is crucial to find the right balance between transparency (which gives value to investors) and what can be considered a reasonable workload for companies. The Stock Exchange is convinced that the frequency (quarterly reporting) is good for most listed companies, including from liquidity and insider dealing perspectives. However, it has come to light in discussions with representatives of listed companies that a sort of unofficial template has been created as to how a quarterly report should be drafted, other than the parts required by law. This has given rise to a perception that boards of directors and senior management are, in some cases, expected to expend disproportionate resources on producing quarterly reports. The Stock Exchange is of the opinion that it is in the interests of companies to provide clear and accurate information to the market. If this can be done in a more time-efficient and cost-efficient way than is currently the case, the Stock Exchange would welcome this development.

On 1 July 2013, the Stock Exchange implemented amendments to the third chapter of the Rulebook for Issuers of Shares to make it easier and simpler for companies to assess when the market must be informed about events occurring between two reporting occasions. Briefly, the amendments provide that a change in the earnings or financial position of a company that does not issue forecasts should only be announced to the market if the event is so material that it is considered price sensitive.

Possible solution:

The Stock Exchange proposes that the same model for interim reports which is currently applied in the United Kingdom and Denmark (among others) be implemented for the Swedish market as well. Naturally, the rules should not prevent companies from providing a more detailed report to the market. In short, an interim report should contain an explanation of material events for the relevant period and their effect on the issuer, as well as a description of the issuer’s financial position and earnings.

During the autumn, the Stock Exchange will propose necessary changes to the rules. The changes to the rules will be the subject of consultation with market participants, and the Stock Exchange’s aim is that the revised rules might take effect on 1 January 2014.
Restrictions on high-frequency trading

Background/Analysis

High-frequency trading has increased in recent years and, as a result, the number of orders per trade has increased at the same rate. The debate concerning high-frequency trading has damaged confidence in the Stock Exchange. Many people are worried, among other things, by the high number of orders per trade. The main reason for the greater frequency of orders is that there are now around 40 marketplaces on which the orders are placed simultaneously. This development is a consequence of the implementation of MiFID at the end of 2007.

Research shows that high-frequency trading is, to a large extent, a form of trading that provides additional liquidity in the market and promotes low volatility, but some characteristics of high-frequency trading should not be rewarded. It is fundamental that the Stock Exchange continues to ensure neutral access to the marketplace and invests in technology and expertise to monitor trading behaviour, including high-frequency trading.

In order to maintain, and improve further, market quality, the Stock Exchange has introduced a charge on excessive order placements which will take effect on 1 July 2011.

Possible solution:

Based on comments made by market participants and based on studies of the effect of a large number of orders per trade over a long period of time, in December the Stock Exchange will be revising the model for calculating the number of orders per trade as follows:

Currently, the Stock Exchange imposes a higher charge for orders exceeding 250 orders per trade. The charge is EUR 0.01 per order on the Finnish market, DKK 0.07 on the Danish market, and SEK 0.09 on the Swedish market. The Stock Exchange now intends to introduce a higher charge already on orders exceeding 100 orders per trade.
INCREASING LIQUIDITY IN SMALL CAP SHARES

Background/Analysis

In order for an investor to dare to invest in a share, there must be good liquidity in the share, there must always be a buyer and a seller, and investors must thereby be able to increase or reduce their holding at any given time. For many SMEs, the liquidity is too low to achieve this security for investors. Therefore, the Stock Exchange wishes to introduce an auction process for shares with poor liquidity. The main purpose of the auction is to concentrate liquidity on relevant shares and establish a price. The Stock Exchange currently holds some 20 auctions a day in connection with market openings, closings and circuit breakers. Similar measures have been introduced in Germany, with the desired effect.

Possible solution

The Stock Exchange intends to introduce this year daily auctions for small cap shares in order to stimulate trading and liquidity. The auctions will take place in the middle of the trading day. Trading will be continuous before and after the auction. The Stock Exchange will not be able to successfully introduce this change unless market participants, primarily those who quote prices in the shares, support the proposal and its implementation.
STEERING GROUP FOR SMES

Background/Analysis

SMEs are of crucial importance for growth in the Swedish economy and the creation of jobs. The primary task of the Stock Exchange is to make it easier for companies to raise capital. In this respect, in December 2012 the Stock Exchange launched the First North Bond Market (“FNBM”). The Stock Exchange’s aim in setting up the FNBM is to develop the First North market, with rules and regulations adapted to small, medium-sized and private companies, in order to increase the possibility for SMEs to raise capital on the bond market.

Possible solution:

To safeguard the interests of SMEs when carrying out an IPO and during the period in which the SME is listed, it is proposed that the Stock Exchange, in cooperation with the Listed Companies Association, sets up a steering group for SMEs. This group should include representatives of SMEs, advisers, investors and academics. The steering group should hold regular meetings and produce proposals to make it easier for SMEs to raise capital.

Next step/procedure

The Stock Exchange will contact the Listed Companies Association and begin work on the solutions proposed above. The aim is to set up the steering group before the end of the year.
INCENTIVES FOR ANALYSTS

Background/Analysis

Reduced knowledge and transparency have a negative impact on the valuation of a company. It is therefore a worrying trend that the number of analysts is decreasing and the monitoring of companies is ceasing or waning. This is primarily a problem for SMEs.

To some extent, this development is a result of the reduced margins in investment brokerage operations of banks and stock brokers and the reduced influx of new IPOs. As a result, there has been a reduction in investments in, and resources for, analysis activities.

Possible solution

The conditions must be created for analysis services to become reasonably profitable again in the long-term. Other stock exchanges in Europe have tried to support the business model for analysis services by, for example, creating a network of independent analysts who offer listed SMEs analysis services (as the Spanish stock exchange has). Another way to try to promote greater coverage of SMEs is for the stock exchange to provide its members, through its pricing, with an incentive to undertake to provide SMEs with analysis services.

From a long-term perspective, it can be debated how the analysis services are to be remunerated. Is the model of paying for analysis via broker commission sustainable in today’s online order system? For this model to be sustainable in the long-term, there must be no uncertainty that, as in other EU countries, Swedish law and regulations allow analysis to be paid via broker commission. Maybe some other form of subscription model should also be discussed.

Next step/procedure

During the autumn, the Stock Exchange will be producing a tangible proposal for consultation with market participants regarding a price incentive structure to promote analysis services for SMEs.
TAX RELIEF ON INVESTMENT IN SMALL COMPANIES

Background/Analysis

SMEs are of crucial importance to growth in the Swedish economy and the creation of jobs. This has been found to be the case in the Nordic region, Europe and the United States. Therefore, there is a substantial societal value in making it easier to invest in SMEs in a controlled and transparent manner. Studies show that listed companies in Europe enjoy a higher growth in turnover than other forms of ownership and that the public form of ownership creates more jobs than other forms of ownership.3

As stated above, it is currently difficult for SMEs to gain access to capital for continued growth. Therefore, tax incentives for investing in SMEs should be considered to promote long-term investment in SMEs and their future growth.

Possible solution

The Stock Exchange proposes that retail investors, institutions and other investors who invest share capital in SMEs and hold the shares for a lengthy period, be subject to a lower tax rate on future capital gains and more far-reaching possibilities to make deductions for any future capital losses. The proposal is in line with the proposal made by ESMA’s group of experts in its report dated 12 October 2012.4 It is also in line with the proposals presented by the Swedish government on 6 September to promote more jobs in competitive companies.5 However, a careful analysis should be made as to the effect a tax incentive of this nature, with a requirement for a long-term holding, would have on liquidity. As stated above, good liquidity is important for attracting investors to listed companies.

3 White Paper by Ernst & Young “Funding the future”, 30 May 2012 and “Return Attribution in Mid-Market Buy-Out Transactions – New Evidence from Europe” by Professor Christoph Kaserer, Center for Entrepreneurial and Financial Studies at the Technische Universität Munchen
5 http://www.regeringen.se/sb/d/17757/a/222918
Funds should be able to invest more in companies on emerging markets

Background/Analysis

Sweden currently interprets the EU rules on investment limits for funds such that only 10% of the fund’s assets may be invested in securities listed on trading venues such as First North\textsuperscript{6}. In other countries, this limit is not considered to apply to similar markets.

SMEs currently have few possibilities to obtain funding via the capital markets and are more dependent on the banking system. Since the financial crisis, the banking system has ramped up the prices of loans, partly due to new capital rules but also due to demands imposed by the banks’ shareholders for a higher return and because the banks’ own borrowing has become more expensive. Like large companies, SMEs thus need to widen their financing options and to use the stock exchange as an alternative to bank loans. In light of this, in December 2012 the Stock Exchange launched the First North Bond Market (“FNBM”), which is adapted to SMEs that are unable to issue bonds on the regulated market.

Credit funds are very important for the functioning of a credit market and, based on the existing interpretation of the UCITS Directive, most are excluded from the First North Bond Market. The consequence of this is that the investment capacity and know-how possessed by the funds within this segment is not used effectively. The absence of one of the investor categories which is most well-informed about credits from the primary and the secondary market also has a psychologically negative effect on other investors. Also, the UCITS regulations influence the investment rules of many other investors active in the credit market.

The Stock Exchange is of the opinion that First North is sufficiently regulated to qualify as “another regulated market” within the meaning of the UCITS Directive. The Stock Exchange believes that First North is, in many respects, regulated to an equivalent standard as a regulated market. The consequence of this is that credit funds which are subject to UCITS regulations should be able to invest 100% of the fund’s assets in financial instruments admitted to trading on First North, compared with the current maximum 10%. The so-called 10% allocation for credit funds is often fully-invested and, in practice, excludes credit funds from First North. The UCITS Directive opens the way for a broader market classification than MiFID because of its definition of other regulated markets. This would render possible substantially improved financing possibilities for SMEs.

\textsuperscript{6} The legislative history to Chapter 5, section 3, paragraph 2 of the Investment Funds Act (2004:46) states that a trading venue is not to be considered what is referred to in Article 19(1)(b) of the UCITS Directive (85/611/EEC) as “another market which is regulated and open to the public” and in which a common fund may invest assets (Government Bill 2006/07:115, p. 672 \textit{et seq}).
Possible solution

The Stock Exchange has initiated discussions with the Financial Supervisory Authority and the Ministry of Finance to try to bring about a change to the current interpretation of the investment rules applicable to UCITS funds in order to increase the attractiveness of investing in SMEs. It is important that relevant market participants clearly express their support for the proposal that First North be considered to be regulated to an equivalent standard as a regulated market.

Next step/procedure

The Stock Exchange has submitted a proposal to the Financial Supervisory Authority and the Ministry of Finance. In the proposal, it is argued that First North is to be equated with a regulated market both in terms of shares and corporate bonds.
Background/Analysis

Listed companies need to raise new capital quickly and efficiently to guarantee their future growth. A number of market participants have stated that raising capital by means of a rights issue is a very costly process for listed companies. Furthermore, it takes a long time to carry out a rights issue, specifically around two months (longer if one takes into account the work involved in producing the prospectus, etc. and shorter if one only takes into account the subscription period). The Swedish Companies Act allows for rights issues to be carried out in a shorter time by virtue of authorisation; however, market practice limits the use of the provisions of the Companies Act in this respect. The lengthy period for implementation of a rights issue exposes the issuer to risks in the form of, for example, macroeconomic events that can have a negative impact on the implementation and costs of the rights issue. As regards private placements, in certain respects there is uncertainty regarding the rules. Taken as a whole, this entails disadvantage as regards the possibilities for listed companies to raise capital effectively.

In April 2010, Regeringskansliet (The Government Offices of Sweden) engaged Rolf Skog to investigate the above matter, and evaluate and propose possible amendments to the Companies Act aimed at ensuring that listed companies can expeditiously and competitively raise capital on the capital markets, particularly through rights issues (the “Committee Report”).

Possible solution

The Committee Report has put forward a number of proposals addressing the problem areas referred to above. It is proposed, among other things, that it be clarified in the Companies Act that private placements to shareholders are permitted and that the Swedish Corporate Governance Board take the initiative for a recommendation regarding issues of shares etc. where shareholders’ pre-emption rights are disappplied. The amendments to the Companies Act would take effect on 1 January 2014. The measures proposed in the Committee Report would make it easier in the short-term for listed companies to raise capital and the measures should therefore be implemented in line with the proposal. Equally, a recommendation from the Swedish Corporate Governance Board might make it easier for listed companies to raise capital by disapplying shareholders’ pre-emption rights. Such a recommendation should, therefore, be produced as soon as possible.

Next step/procedure

The Stock Exchange will convey to the Ministry of Finance and the Swedish Corporate Governance Board its clear support for the proposals in the Committee Report and the importance of introducing the amendments as soon as possible and for considering simplification of the rules governing rights issues.

7 Ds 2012:37
**Background/Analysis**

SMEs have limited access to loan financing. Share capital is often the only source of financing available to SMEs. The legislation currently in force is discriminatory in so far as from a tax perspective it is more efficient to finance the business through loans since the loan costs are deductible in the business before tax, while the costs of share capital are not. Thus, this discrimination provides an incentive for SMEs to finance the business through borrowed capital, to the extent this capital is available to the companies.

The Committee Terms of Reference regarding a Review of Corporate Taxation state, among other things, that the taxation of companies is of key importance to investment and growth in Sweden. Taxation is of greatest importance to the competitiveness of Swedish companies. The financial crisis and the reforms carried out in its wake have demonstrated the strength of shareholders’ equity in the corporate sector.

**Possible solution**

The discrimination between the sources of financing (loans vs. shareholders’ equity) must come to an end. It is therefore important that the Corporation Tax Committee produce a proposal which ensures neutrality between these sources of financing. Therefore, the proposal should be implemented as soon as possible. In light of the advantages which financing through shareholders’ equity actually brings to companies and the national economy in general, it should also be considered whether the proposal presented in the Tax Incentive Committee Report in 2009 should not be resurrected. However, since the marketplaces for listed growth companies have developed considerably in recent years, any proposal regarding tax relief should apply not only to unlisted companies but also to listed growth companies.

**Next step/procedure**

The Stock Exchange intends to clarify shortly to the Ministry of Finance and the Corporate Taxation Committee that the discrimination between the sources of financing (loans vs. shareholders’ equity) must be removed.

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8 See, for example, the ECB’s report from April 2013 (http://www.ecb.int/press/pr/date/2013/html/pr130426.en.html)

9 Dir 2011:1, dated 13 January 2011

CORPORATE GOVERNANCE – SPECIAL TREATMENT OF LISTED COMPANIES

Background/Analysis

Sound corporate governance is about ensuring that companies are managed as efficiently as possible in the interests of the shareholders. This creates confidence in companies and markets, which is good for investment and economic growth, and thus for jobs and welfare.

Corporate governance in Swedish listed companies is regulated through a combination of rules and regulations and market practice. The rules and regulations comprise essentially the Swedish Companies Act, but also the Swedish Corporate Governance Code (the “Code”) and the Stock Exchange’s rules.

The Code complements the Companies Act by imposing more stringent requirements in some areas, whilst at the same time enabling companies to derogate from these requirements if, in a particular case, this is deemed to result in better corporate governance (the “comply or explain principle”).

The European Commission has previously drawn the conclusion that standardised corporate governance rules in the EU could not be successful. Corporate governance rules have developed to resolve various shortcomings in domestic company law regimes in light of different ownership structures and legal traditions in the Member States.

The Stock Exchange is of the opinion that the “comply or explain principle” works well for Swedish conditions. However, the Stock Exchange has noted that, after the financial crisis, the European Commission altered its position on corporate governance issues. Deficient corporate governance at certain banks has served as the pretext for the introduction of standardised and detailed rules applicable to all European listed companies. In addition, the European Commission has advocated legislation in all countries and thereby less self-regulation. The regulation offensive comprises, among other things:

+ More stringent rules and detailed requirements regarding remuneration to directors and senior management
+ Detailed rules regarding auditors, audits and audit committees in boards of directors
+ Detailed rules regarding the composition of boards of directors and the work they perform
+ Gender quotas when the shareholders elect directors

The special treatment of listed companies results in Swedish listed companies incurring substantial costs, with a risk of weakening the competitiveness of Swedish listed companies, both as compared with listed companies from other parts of the world and compared with private equity firms. This may hamper future growth and job creation. It is inconsistent, on the one hand, to claim that it is important to achieve greater transparency in the market and govern trading from OTC to the stock exchange and, on the other hand, to make it less attractive to be listed than non-listed, by increasing the regulatory burden on listed companies alone.
Next step/procedure

1. The Stock Exchange intends to continue its cooperation with listed companies to underline the benefits of the Swedish variant of the “comply or explain principle” and to counteract discrimination against listed companies (due to burdensome legislation) as compared with unlisted companies.

2. During the autumn, the Stock Exchange will be taking the initiative to set up an expert group tasked with producing proposals as to how the regulatory burden on listed companies should reasonably be structured to ensure that there is a reasonable regulatory burden, transparency, a high level of confidence, growth, and the creation of jobs.
## APPENDIX

### To-do List:

<table>
<thead>
<tr>
<th>Action</th>
<th>Party primarily responsible for implementation</th>
<th>Date for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. More flexible rules regarding quarterly reporting - in order to reduce the administrative burden on listed companies</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>2. Reduce the number of orders per trade through price structure changes aimed at strengthening public confidence in the Stock Exchange</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>3. Introduce an auction procedure during the trading day to increase trading and interest in infrequently traded shares</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>4. Create a steering group for SMEs to ensure that the interests of this group are safeguarded</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>5. Introduce the possibility for applicants to obtain an advance ruling in the listing process</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>6. To improve information and transparency vis-à-vis the media and retail investors, the following measures will be taken in addition to those already carried out and described on page 8. + Customise training programmes for listed companies and the media regarding trading halts; and + Produce a checklist which can be used as guidance when managing the provision of information.</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>7. The Nordic Foundation focuses on providing support (through funding) to research relating to the importance of the stock exchange for the raising of capital by public companies and their growth</td>
<td>Stock Exchange</td>
<td>Continuously</td>
</tr>
<tr>
<td>8. Initiate a study with a global focus to identify measures to promote active management in preference to passive management. The study can then form the basis of continued discussions and possible action.</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>9. Initiate discussions with representatives of private equity firms, Aktiespararna, Företagarna and institutions in order to find a format and structure for cooperation which reduces the imbalance in knowledge about companies, public vs. non-public investments</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>10. Remove the ‘free float’ requirement to have 500 shareholders who must each own shares worth €1,000 and implement a market-maker policy to encourage the use of market makers</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>11. Present a proposal for a market consultation regarding an incentive structure for the promotion of analysis services for SMEs</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
<tr>
<td>12. Set up an expert group tasked with producing proposals as to how the regulatory burden on listed companies should reasonably be structured to ensure transparency, a high level of confidence and the creation of jobs</td>
<td>Stock Exchange</td>
<td>By 31 December 2013</td>
</tr>
</tbody>
</table>