



28 October 2016

## INSTRUCTION 3-2016

**On 1 December 2016, a number of revisions to rules in the Swedish Corporate Governance Code (“the Code”) will come into force. The changes are a consequence of the EU directive on sustainability and diversity policy<sup>1</sup>, (“the Directive”) and the resulting amendments to Swedish legislation. The revisions will be applicable to the next financial year commencing after 31 December 2016.**

As a result of the legislative changes made in response to the directive, all companies of a certain size - the legal requirement does not apply to all small listed companies – are to produce a sustainability report containing information on issues such as environmental impact, social conditions, human resources, respect for human rights and anti-corruption measures. Those companies whose financial year corresponds to the calendar year will be required to publish their first sustainability report in the spring of 2018 for financial year 2017. The report is to describe areas such as corporate policy on sustainability issues and any substantial risks linked to the company's operations. The company's auditor is to check whether a sustainability report has been produced. Certain groups of companies are also to produce sustainability reports. The reporting requirements are intended to make information on how companies work with sustainability issues more transparent and comparable. The report may be published separately from the annual report.

Against this background, provisions on how long such a sustainability report is to be made available on the company website, as well as the auditor's statement on whether a report has been produced, have now been introduced into the Code.

Additionally, the amended legislation requires some listed companies, but not all, to include in their corporate governance reports information on the diversity policy applicable to the company's board of directors, for example with respect to age, gender, education and professional background. Companies whose financial year corresponds to the calendar year will be required to describe how their diversity policy was applied in 2017 in their corporate governance reports published in spring 2018. The Code clarifies the role of the nomination committee regarding the implementation of the diversity policy. The nomination committee is to describe its application of the diversity policy for the first time in its statement to the 2017 annual general meeting.

In order to emphasise the importance of companies' reporting on sustainability and diversity policy, the following changes have been made to the Code. Blue underlined text has been inserted into the Code.

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<sup>1</sup> European Parliament and Council Directive 2014/95/EU amending Directive 2013/34/EU regarding certain large companies' and groups of companies' provision of non-financial information and details on diversity policy.

2.6 The nomination committee's proposals are to be presented in the notice of the shareholders' meeting where the elections of board members or auditors are to be held, as well as on the company's website.

When the notice of the shareholders' meeting is issued, the nomination committee is to issue a statement on the company's website explaining its proposals regarding the board of directors with regard to the requirements concerning the composition of the board contained in Code rule 4.1. The committee is to provide specific explanation of its proposals with respect to the requirement to strive for gender balance contained in rule 4.1. If the outgoing chief executive officer is nominated for the post of chair, reasons for this proposal are also to be fully explained. The statement is also to include an account of how the nomination committee has conducted its work [and, for certain companies<sup>8</sup>, a description of the diversity policy<sup>9</sup> applied by the nomination committee in its work.](#)

The following information on candidates nominated for election or re-election to the board is to be posted on the company's website<sup>10</sup>:

- The candidate's age, principal education and professional experience,
- any work performed for the company and other significant professional commitments,
- any holdings of shares and other financial instruments in the company owned by the candidate or the candidate's related natural or legal persons,
- whether the nomination committee, in accordance with Code rules 4.4 and 4.5, deems the candidate to be independent of the company and its executive management, as well as of major shareholders in the company. Where circumstances exist that may call this independence into question, the nomination committee is to justify its position regarding candidates' independence,
- in the case of re-election, the year that the person was first elected to the board.

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<sup>8</sup> [Applies to listed companies which fulfil more than one of the requirements stated in chapter 6, section 10, paragraph 1, points 1-3 of the Annual Accounts Act \(1995:1554\).](#)

<sup>9</sup> [The diversity policy may consist of Code rule 4.1.](#)

<sup>10</sup> If a board member is nominated by a party other than the nomination committee, the nominating party is to submit the required information to the company, including the nominating party's assessment of the nominee's independence with regard to the company, its management and major shareholders in the company.

## 10 Information on corporate governance and sustainability<sup>24</sup>

*The board of directors is to inform shareholders and the capital market annually regarding corporate governance functions in the company and how the company applies the Swedish Corporate Governance Code. This information is to be published in a corporate governance report<sup>25</sup> and on the company's website. The corporate governance report should focus on company-specific conditions and need not duplicate the content of existing legislation or other regulation.*

The boards of certain companies are to provide annually, in a sustainability report and on the company website, the information to shareholders and the capital market on sustainability issues that is necessary for an understanding of the company's development, position and results, as well as the environmental impact of its operations<sup>26</sup>.

10.4 Companies which are legally required to publish a sustainability report or which without being subject to this requirement voluntarily publish such a report are to make available on their websites the ten most recent years' sustainability reports, along with that part of the auditor's report which covers the sustainability report or the auditor's written statement on the sustainability report<sup>32</sup>.

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<sup>24</sup> The rules in Chapter 10 of the Code are to be complied with by all companies that apply the Code. No deviation with accompanying explanation is permitted with regard to these rules.

<sup>25</sup> The requirement to produce a corporate governance report is stipulated in chapter 6, sections 6-9 of the Annual Accounts Act (1995:1554).

<sup>26</sup> The requirement to publish a sustainability report, and which companies are required to do so, is contained in chapter 6, sections 10-14 and in chapter 7, sections 31a-31c of the Annual Accounts Act (1995:1554).

<sup>32</sup> The requirement concerning auditor review of the sustainability report if it is included in the management report is contained in chapter 9, sections 31 and 38 of the Companies Act (2005:551). The requirement concerning auditor review if the sustainability report is published separately from the annual report is contained in chapter 6, section 14 and chapter 7, section 31c of the Annual Accounts Act (1995:1554).