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Comments regarding the Ministry of Justice proposals on new rules for auditors and audits (SOU 2015:49)

The Swedish Corporate Governance Board ("the Board") was invited to submit comments to the Swedish Ministry of Justice on its document entitled "New Rules for Auditors and Audits", (SOU 2015:49). The Board has limited its comments to three issues.

The Board supports the report's main proposals concerning disciplinary measures, i.e. that administrative penalties should only be applicable when an auditor infringes the prohibition to commence employment in certain positions at the customer during a quarantine period. The conclusions contained in the report on the subject of how the sanctions proposed in the Directive relate to the European Convention on Human Rights and the EU Charter of Fundamental Rights must be considered valid. It would be very unfortunate if Swedish law introduced a regulatory framework which in many ways contravenes EU primary law. EU legislation must maintain a certain level of quality, and if it does not, there must be an obligation for Member States to ensure that the legislation they implement is compatible with EU law.

The report's proposals discriminate against financial companies, preventing them from being able to extend auditing contracts in the same way as other public interest entities. The Board finds it difficult to see that there are objective reasons for this difference, and it would be unfortunate if there were to be different rules for different types of listed companies. Against this background, the Board suggests that the same possibilities to extend auditing assignments apply to financial companies as for other public interest entities.

Finally, there would be very negative consequences for both practical reasons and with regard to legal certainty if companies were required to implement the regulations in full from 17 June 2016. There are no sensible reasons for choosing this starting date, other than it being the date of publication in the Official Journal. It is the view of the Board, therefore, that the Government should act as usual when it comes to this type of regulation and recommend that the regulations are to apply from the fiscal year that begins immediately after that date.

Stockholm, 23 September 2015

THE SWEDISH CORPORATE GOVERNANCE BOARD

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