

Nomination Committees in Swedish Listed Companies

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Overall, Swedish corporate governance is closely aligned with international developments over the last few decades. However, due to specific circumstances it differs on a few points from what is standard practice in many countries. One example of this is the concept of the Nomination Committee.

From the early stages of modern corporate governance development in Sweden during the first part of the 1990's, the concept of the Nomination Committee (NC) was applied in a different way to its US/UK origin. Rather than being a subcommittee of the board, NCs of Swedish companies were generally appointed by the shareholders and made up predominantly of major owners or their representatives. When the Swedish Code of Corporate Governance was introduced in 2005, this practice was defined in more precise terms and codified as a model standard for Swedish listed companies.

A key factor behind this difference is the more concentrated ownership structure and the stronger role of the shareholder in the Swedish – and indeed the entire Nordic – corporate governance system than in some other parts of the world. For example, whereas the US and UK stock markets are dominated by companies with widely dispersed ownership structures, a large proportion of Swedish stock-listed companies are dominated by one or a few controlling owners, who often take a long-term, active role in the governance of the company.

Another important factor is the strictly hierarchical Swedish governance system with the board being fully subordinate to the AGM. Thus it is not considered appropriate for the board to have a strong influence, through a subcommittee, on its own composition.

The Swedish NC Model

Instead the Swedish Code prescribes that the NC be appointed by the owners. This can be done in two ways: Either the members of the NC are appointed by name at the AGM or the AGM decides on a procedure for later appointments of some or all of the members. About four companies out of five use the latter method. The main reason is to avoid situations where the company's ownership structure is fundamentally changed after the Committee has been set up.

The prime task of a Swedish NC is to make recommendations for the AGM's decisions regarding election and remuneration of board members. However, when the AGM is to appoint a

statutory auditor, which normally happens every fourth year, the NC makes this recommendation as well, based on an analysis and proposal by the Audit Committee.

The typical size of a Swedish NC is four or five members, usually made up of the board Chair and representatives of the three or four largest owners. According to the Code, the board Chair cannot chair the Committee. Instead one of the owner representatives usually carries out this role. The Code also allows other board members to be part of the NC, but board members (including the Chair) must not comprise a majority of the Committee. Still, in 90 percent of the companies no, or at most one, board member sits on the NC.

The Work of the NC

A crucial aspect of the NC work is to obtain accurate and relevant information about the company's position and future strategy as a basis for defining the key requirements on the new board. The main source of such information is the board Chair. As a complement to the picture given by the Chair, some NCs also invite other board members, the CEO, the CFO and/or the Auditor to present their views of the challenges facing the company. There is a general discussion in Sweden about the need for additional board representation in NCs in order to broaden the knowledge of the company's business within the Committee. As already mentioned, the Code has no objections to this as long as board members do not make up a majority of the NC. However, few companies make use of this possibility, and most NC members seem to be of the opinion that the information available to them through other available channels is satisfactory for their work.

A similar issue is the need for the NC to obtain reliable information about the performance of the Board and its members. Here again the prime source of information is the board Chair. However, it is obvious that the information thus obtained will not always give a complete and objectively accurate picture. Therefore the Code prescribes that the result of the annual board evaluation, mandatory according to the Code, be made available to the NC, a possibility made use of by most NCs. Furthermore some NCs – or their individual members – complement the picture thus obtained through personal interviews with additional board members.

The search for candidates is primarily carried out through the networks of the NC members, in many



cases complemented by the use of professional search consultants. This latter procedure seems to be increasing in importance, especially among larger companies, reflecting a general trend towards increased structure and professionalism in the nomination process. Nevertheless, the cost effectiveness of using search consultants is sometimes questioned on the basis of their cost and alleged tendency to propose the “expected” candidates rather than taking a more creative and innovative approach to the search. Still, the overall picture is that the quality of board nomination processes in Swedish companies has improved significantly over the last few years. The “old boys’ network” criticism of just a few years ago has all but vanished.

Usually a significant portion of the total company shareholding is represented in Swedish NCs. Furthermore, the Code requires information on how other shareholders may submit their viewpoints to the NC to be provided on the company’s web site. Hence the need for additional formal shareholder interaction is less pronounced than in NCs made up entirely by board members. Still some NCs, after having published their recommendation to the AGM, arrange information meetings with other shareholders in order to present and explain their proposal.

The Revised Code

Up until mid-2008 only about a hundred of the largest listed companies on the Stockholm Stock Exchange were obliged to apply the Code. However, from 1 July 2008 this obligation encompasses all companies whose shares are listed on a regulated market in Sweden, in all more than 300 companies. For this reason a review of the Code has been carried out with the aim of adapting it to the needs and circumstances of the smaller listed companies. The revised Code is available on the Swedish Corporate Governance Board’s website, www.corporategovernanceboard.se.

An important aspect of the review was to reconsider the Code rules regarding NCs – both the specific Swedish model per se and its detail prescriptions. The conclusion on the first point was essentially to maintain the model in its present form. There is little or no support in the Swedish business community and securities market for a change towards the concept of a subcommittee of the board nominating board members. The present model is generally considered to work well and be better adapted to the Swedish corporate governance system.

However, some changes were made, the most important of which are the following:

- It is emphasised that
 - o the sole task of the NC is to prepare recommendations for the AGM’s decisions on certain election and remuneration matters,
 - o all NC members, irrespective of how they are appointed, are obliged to promote the interest of all shareholders.
- Certain independence requirements have been introduced for NC members:
 - o The majority are to be independent of the company and its executive management (a requirement that virtually all Swedish NCs already fulfil).
 - o Some new rules to avoid the NC being too much dominated by a controlling owner.
- A new rule has been introduced requiring the NC to present and explain its proposal regarding Board composition on the company’s website in connection with the issuing of the notice for the AGM.

In Conclusion

For the foreseeable future, the Swedish model of Nomination Committees is here to stay. Experiences so far have been generally positive, and the model is believed to function well within the context of the Swedish corporate governance system. It is generally considered – also by many non-Swedish NC members - to have led to more systematic and professional nomination processes, which over time will improve the quality of company boards.

This does not mean that the model does not have some remaining issues, which the companies will have to deal with in the years to come. It also remains to be seen how it will work for the many smaller listed companies about to start using the Code. We are still in a learning process.

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