

## NASDAQ OMX Nordic Surveillance

### Monthly report March 2009

#### **Stockholm**

The Disciplinary Committee of the NASDAQ OMX has in March handled one case regarding a possible breach of the exchange rules. The case concerned XANO Industri AB that was deemed to have breached the disclosure and reporting regulations of the exchange by failing to provide information regarding the purchase price for a major company acquisition. The breach of the rules was considered as severe in light of the fact that the company previously had been criticized by the exchange in a similar matter. The Exchange's Disciplinary Committee decided that XANO should pay a fine of two annual fees, corresponding to SEK 384,000.

The exchange has issued criticism towards one exchange member. The member had received and executed a client's order regarding a less liquid stock and the execution resulted in such price impact that the exchange decided to cancel the trades. The circumstances were such that the broker who received the order should have rejected it.

During the month, three (3) cases have been handed over to the Swedish Financial Supervisory Authority, subsequent to the exchange's obligation according to Swedish law to report matters of suspected market abuse. All of the three cases concerned suspected market manipulation. Apart from that, one (2) referral has been made regarding a case where the level of suspicion was lower.

The shares in Nilörngruppen AB and Semcon AB were placed on the observation segment due to the fact that AB Traction and JCE Group AB had announced public offers to the shareholders of the companies.

The shares in Oxigene Inc. were placed on the observation segment after the company had failed to publish its report of unaudited annual earnings figures for 2008 within two months from the expiry of the reporting period, as required by the exchange rules. The shares were on March 23rd transferred back to their ordinary position after the company had published the required report.

#### ***Surveillance of financial reporting 2009***

During the month (full year) the Exchange has sent the following number of closing letters to companies whose reports have been subject to special examination.

Category	1	2	3	4
Annual report (shares)	0 (0)	0 (0)	0 (0)	0 (1)
Interim reports (shares)	N.A.	0 (0)	0 (0)	0 (0)
Annual reports (bonds)	1 (1)	0 (0)	0 (0)	0 (0)
Interim reports (bonds)	N.A.	0 (0)	0 (0)	0 (0)
Follow-up / other cases	N.A.	0 (0)	0 (0)	0 (0)

Category 1 - no remarks.

Category 2 - remark regarding disclosure.

Category 3 - criticism.

Category 4 - statement of reprimand to the disciplinary committee.

## **Helsinki**

The Disciplinary Committee of NASDAQ OMX Helsinki issued a warning to Cencorp Plc for breaching the Rules of the Exchange in connection with the company's disclosure process on November 28, 2008. The company did not notify the Exchange in advance as required by the Rules.

One company was criticized, because its financial statement release was not disclosed in accordance with the rules of the stock exchange that state that such a report must be disclosed not later than two month from the expiry of the reporting period.

One case of suspected market manipulation was transferred to the Finnish Financial Supervisory Authority.

## **Copenhagen**

One company received a reprimand for not publishing a significant company announcement regarding a project, as soon as possible or at the latest, simultaneously with the publication by the partner on the project.

The shares in Spar Nord FormueInvest A/S were transferred to the observation segment due to the fact that the company announced that more than half of the company's share capital had been lost as a result of investment activities in 2008 and the changed tax rules for investment companies. The Board of Directors will at the company's annual general meeting on 30 March 2009, address the company's future operations and how the share capital shall be reestablished.

The shares in Deadline Games A/S were transferred to the observation segment due to the fact that the company announced that if no production- or financing agreements were entered into within a short time, the management will re-evaluate the company's future, including the possibilities of selling part of the company, partnerships, injections of capital, additional cost reductions etc. Alternatively the management will make a decision concerning the necessity and consequences of an insolvent liquidation of the company.

The bonds (11% Keopsejd 2014 and 12% Keopsejd 2019) were transferred to the observation segment due to the fact that Landic Property Bonds I A/S had not responded to the Exchange's request and had not announced information regarding the company's financial situation as requested by the Exchange.

The shares in Danisco A/S were removed from the observation segment due to the fact that the company announced that the divestment of Danisco Sugar A/S was completed.

The shares in Mondo A/S were removed from the observation segment due to the fact that the company announced that the share capital reduction to cover losses and the share capital increase to ensure a more appropriate debt structure and necessary liquidity was completed.

The shares in Lundbeck A/S were removed from the observation segment due to the fact that the company announced that the acquisition of Ovation Pharmaceuticals was completed, and the final approvals and anti-trust clearances had been received by the US Federal Trade Commission.

## **Iceland**

A public reprimand and a monetary sanction amounting to ISK 2,500,000 were issued towards Bakkavör Group hf. on the grounds that the company did not publish price-sensitive information, concerning provisions in a loan agreement. The company's chairman said in a television interview that creditors of the company were entitled to call in loans in the event of changes to the board of Exista hf., the largest shareholder in Bakkavör, without the approval of Bakkavör's creditors. The chairman further stated that, should the Icelandic banks' collapse lead to Exista hf's downfall, this could have had serious consequences for Bakkavör.

The Exchange publicly reprimanded and imposed a monetary sanction amounting to ISK 1,500,000 on a bond issuer, Milestone hf. The issuer had failed to publish information regarding the issuer's financial position and delayed payments of securities traded on the Exchange in a timely manner, and the information had been published in the media before it was published. The issuer first published an announcement regarding the default on a class of securities listed in the Exchange on November 19, 2008, whereas the securities' maturity date was October 26, 2008.

The Exchange publicly reprimanded and imposed a monetary sanction amounting to ISK 1,500,000 on a bond issuer, Atorka Group hf. The issuer had failed to publish information regarding its financial position and payment difficulties in timely manner. The issuer first issued a public announcement regarding the default on the bond series ATOR 07 2 and ATOR 06 1 on February 10, 2009, whereas the series matured on, respectively, 16th and 26th of January, i.e. two and three weeks before the announcement on delayed payments was made public. The issuer's latter announcement on delayed payments and the standstill agreement for the bond series ATOR 05 1, ATOR 07 4 and JRDB 04 1 was first published on March 20, whereas the series' maturity dates were March 15, March 13 and February 17.

The Exchange publicly reprimanded and imposed a monetary sanction amounting to ISK 1,500,000 on a bond issuer, Landic Property hf. The issuer had failed to publish information

regarding its financial position and payment difficulties in timely manner. Information regarding the financial difficulties and defaults in payments was only given to the securities' holders. Such selective disclosure to a limited number of investors does not meet the issuer's disclosure requirements. The issuer did not publish an announcement about the default on a class of securities listed in the Exchange until January 9, 2009, whereas payment was due on the securities on December 6, 2008.

One company received criticism because price sensitive information regarding the issuer's decision to sell assets was not disclosed publicly in a timely manner.

A bond issuer received criticism because price sensitive information regarding the issuer's decision to sell assets was not disclosed publicly in a timely manner.

The bonds issued by Exista hf. were moved to the observation segment due to uncertainty concerning the issuer's financial position, with reference to an announcement from the company regarding its payment difficulties.

The bonds issued by Mosaic Fashions hf. were moved to the observation segment due to uncertainty concerning the issuer's financial position, with reference to an announcement from the company regarding its petition for bankruptcy proceedings.

The financial instruments issued by Straumur-Burdaras Investment Bank hf. were moved to the observation segment due to uncertainty concerning the future of the issuer, with reference to an announcement from the company stating that the Icelandic Financial Supervisory Authority had taken over the control of the company.

The bonds issued by Sparisjodabanki Islands were moved to the observation segment due to uncertainty concerning the future of the issuer, with reference to the decision of the Icelandic Financial Supervisory Authority, from 21st of March, to take control of the operations of Sparisjodabanki Islands.

The trading was halted (matching halt) in the shares issued by Össur hf. after information was published in the media regarding a possible takeover bid regarding the company. Trading was resumed the same day, after the issuer had published an announcement.

## **First North**

The shares in RayClinic AB were transferred to the observation segment after the company announced that it had decided to apply for a financial reconstruction.

The shares in SRAB Shipping AB were transferred to the observation segment after the company announced that the company will make a balance sheet for liquidation purposes and propose to the AGM that the share capital of the company is written down.

The shares in 360 Holding AB were placed on the observation segment on October 23, 2008 due to a planned significant change of the company's line of business. After the transaction had been aborted the shares continued to be traded on the observation segment due to uncertainty regarding the company's financial position. The shares were in March

transferred back to their ordinary position after the company had published its Q 4 report of 2008 and in the report stated that it is the company's judgment that there is no additional need for new capital in the company for the foreseeable future.