

NASDAQ OMX Iceland hf. reprimands the municipality of Reykjanesbær

NASDAQ OMX Iceland hf. (the Exchange) has decided to reprimand Reykjanesbær (the Issuer) publicly due to events through which the Issuer is deemed to have violated provisions of the Exchange's Rules for Issuers of Financial Instruments. The Issuer, Reykjanesbær, is deemed to have violated provisions 4.1.2, 4.1.3, 4.1.4 and 4.2.1 of the Rules.

Circumstances of the case

On 30 August 2010 there were reports in the media on the financial situation of the municipality of Reykjanesbær. This included a discussion of a foreign loan equivalent to ISK 1.8 billion, which matured on 2 August without payment being made. That same day, correspondence began between the Exchange and Reykjanesbær, in which the Exchange requested, for instance, explanations as to whether the information presented in the media on Reykjanesbær had been correct and, if this were the case, whether the Issuer considered this to be price-sensitive information. Following this, bonds of Reykjanesbær were moved to the Observation List on 1 September 2010.

In its replies, the Issuer stated, among other things, that Reykjanesbær was negotiating with a bank concerning payment of the foreign loan which matured at the beginning of August. It was also mentioned that the interest payment due on 2 August had been paid but not the principal and for this reason, as well as the fact that negotiations were not concluded, this was not in the estimation of Reykjanesbær, price-sensitive information.

Provisions of the Exchange's Rules

According to Section 4.1.2 of the Exchange's Rules for Issuers of Financial Instruments (the Rules), an issuer must ensure that investors have, at all times, access to the latest information necessary to form an opinion of the investment choices currently offered. The management of the issuer concerned must thus always make every effort to make public any information they feel could have a significant impact on the market price of the securities. According to Section 4.1.3, an issuer must ensure equal treatment of investors concerning access to information covered by these Rules, and treat and preserve information so as to ensure that unauthorised persons do not have access to such information before it is made public. According to Section 4.1.4, an issuer must make public all information covered by the Rules immediately or as quickly as possible. According to Section 4.2.1, an issuer must make every effort to make public without delay previously unpublished information on decisions or events which it knew, or should have known, would have a significant impact on the price of its bonds.

Conclusion

The Exchange does not accept the Issuer's explanation that the information in question was not price-sensitive as negotiations with the bank were still underway and the interest payment on the loan had been made. It must be considered price-sensitive information if a bond issuer cannot make payment on its debts, regardless of whether work is underway on refinancing or not, cf. section 4.2.1 of the Exchange's Rules. If negotiations on refinancing are not successful a creditor could demand payment with serious consequences, in view of the substantial amount of the loan. Reykjanesbær should therefore have published a notification

Surveillance Iceland

of its expected default at the latest when it became evident that renegotiating the debt with the bank would not be possible before the loan fell due.

It is evident from the Issuer's responses that certain creditors of Reykjanesbær were informed of the situation while general bondholders, as well as possible investors, were not. Such selective information disclosure to a limited group of investors violates the right of market participants to equal access to information which may have a significant impact on the market value of an issuer's securities, cf. Section 4.1.3. It should also be pointed out that an issuer of securities is responsible for ensuring that information which could be expected to have a significant impact on the market value of its securities is not reported in the media before being made public in a satisfactory manner in accordance with the above-mentioned provisions. It must therefore be taken into account that the Issuer did not respond by informing the market of the situation when the media had reported the issue, and it was clear that information had been leaked, nor did it do so following queries from the Exchange.

Having regard to the circumstances of the case and taking the above-mentioned grounds of the Issuer into consideration, NASDAQ OMX Iceland deems that the Issuer has, through its behavior in the instance in question, violated sections 4.1.2, 4.1.3, 4.1.4 and 4.2.1 of the Rules.

Decision on public reprimand

The Exchange publicly reprimands Reykjanesbær for the above-mentioned violation of the Exchange's Rules. In the opinion of the Exchange, through its behaviour the municipality has violated the provisions of sections 4.1.2, 4.1.3, 4.1.4 and 4.2.1 of the Rules.

The decision on a public reprimand is taken on the basis of the agreement with the Exchange on the admission of financial instruments of the Issuer to trading, cf. section 8.3 of the Exchange's rules. Point 4 of this section states, for instance, that in cases of violations of the Exchange's rules, the exchange may issue a public statement concerning the matter in question.