

**DISCIPLINARY COMMITTEE
OF NASDAQ ICELAND**

Decision in case no. 2/2014

Bonds issued by the Municipality of Kópavogur (“the issuer”) are traded on Nasdaq Iceland (NASDAQ OMX Iceland hf., hereinafter “the Exchange”). The Municipality of Kópavogur has undertaken to comply with the Exchange’s Rules for Issuers of Financial Instruments issued on 17 December 2013 (“the Rules”).

The Exchange has requested the Disciplinary Committee to decide whether to impose sanctions on the Municipality of Kópavogur in accordance with the aforesaid Rules.

The Committee’s decision takes account of the written evidence available.

I.

According to the Exchange’s information and the documents of the case, the main facts are as follows:

At 13:39 hours GMT on 15 January 2014, the Municipality of Kópavogur made public an announcement in relation to a Municipal Council meeting held on 14 January 2014. The announcement disclosed that the Municipal Council had adopted a resolution on housing policy. Among other things, the announcement stated that a decision had been made to purchase apartments and construct apartment buildings, which could increase the Municipality’s debts by 7-9% from existing plans. Media coverage of the decision included an article published on the online newspaper site mbl.is at 22:54 hours on 14 January 2014.

In a letter dated 17 January 2014, the Exchange requested explanations from the Municipality. Firstly, explanations were sought as to why the result of the Municipal Council meeting on 14 January 2014 was not disclosed without delay or as soon as possible, as required by the Rules for Issuers of Financial Instruments. Secondly, it requested explanations as to why the media were given access to the information before it was made public.

The Municipality's reply was received on 22 January 2014. In answer to the first question, concerning whether or not the information had been published as soon as possible, the Municipality replied that the proposal in question was tabled at a Municipal Council meeting on Tuesday 14 January 2014, which meeting commenced at 4pm. For this reason, the proposal lacked the preliminaries and preparation that would have enabled the Municipality's staff to react appropriately. Immediately on the morning after the meeting, the minutes of the meeting were reviewed and the effects of the proposal assessed. On the basis of this review, it was deemed necessary to disclose the decision to the Exchange before the minutes of the meeting were made public. The announcement was sent to the Exchange at 13:39 hours on Wednesday 15 January and the minutes of the meeting were made public on the Municipality's website at 14:26 hours on 16 January. The Municipality is of the opinion that it reacted without undue delay by sending an announcement to the Exchange in accordance with the rules thereon.

As for the latter question, concerning why the media had been granted access to the information before it was made public, the Municipality's reply was that municipal council meetings were held in public, cf. Article 16 of the Local Government Act No. 138/2011, and that meetings of the Kópavogur Municipal Council were broadcast live. The Municipality further stated that the media often monitored the proceedings of Municipal Council meetings and, presumably, had created a news item out of the business transacted at this particular meeting. The Municipality claimed not to have sent any announcement to the media regarding the aforesaid decision prior to sending the announcement to the Exchange.

In a letter to the Disciplinary Committee dated 27 June 2014, the Exchange set out the facts of the case, the Municipality's explanations and the Exchange's view that the issuer had violated specific provisions of the Rules for Issuers of Financial Instruments.

In a letter to the Municipality of Kópavogur dated 5 September 2014, the Exchange referred to the fact no further information on the implementation of the Municipal Council's resolution of 14 January 2014 had been made public. The Exchange requested information from the Municipality about the status of the resolution and whether it was being implemented in accordance with the announcement made public on 15 January 2014. If not, the Exchange requested explanations from the issuer as to why the changed circumstances had not been made public.

In a letter to the Exchange dated 29 October 2014, the Municipality replied that the Municipal Council's decision of 14 January 2014 remained unaltered from the said resolution. It also stated that the Municipal Council's decision involved the purchase of 30-40 apartments and the commencement of preparations for the construction of two apartment buildings for rental apartments. The Municipality had not been able to implement the first part of the decision because the supply of apartments suitable to the Municipality's needs did not meet its demand. For this reason, the Municipality had only been able to purchase apartments in accordance with the plans in the budget for the period.

As regards the latter part of the decision, the Municipality's letter stated that it did not have available building plots ready for construction to implement the property development decision. A local land use plan had been developed, which envisaged apartment building plots that could be used in accordance with the Municipal Council's decision. These plots would not be ready for construction until June 2015.

According to the letters, the status of the resolution therefore remained unchanged and the Municipality had been working in accordance with it, although this was not yet apparent in the Municipality's records beyond previous plans. The budget for the next budgetary period was being prepared and any new decision regarding the resolution of 14 January 2014 would be disclosed to the Exchange in line with requirements.

In a letter dated 8 December 2014, the Exchange notified the Municipality that, on the basis of the correspondence outlined above, a decision had been made to refer the case to the Disciplinary Committee for formal review and that the issuer had an opportunity to submit further statements.

II.

The Exchange considers the Municipality of Kópavogur to have violated Articles 4.1.2, 4.2.1, 4.1.4 and 4.1.3 of the Rules for Issuers of Financial Instruments. In the Exchange's view, the issuer had a duty to disclose the decision as soon as it had been made at the Municipal Council meeting on 14 January 2014. By failing to publish the announcement until the afternoon of 15 January 2014, the issuer was therefore in breach of Articles 4.1.2, 4.2.1 and 4.1.4. The Exchange further argues that when assessing the seriousness of breaches it has often been taken into consideration whether any after-market-close disclosure was made before the markets opened on the following trading day. In the present case, the announcement was not published before the markets opened; in fact, it was not published until more than four hours

after they opened. The Exchange further points out that under Article 4.1.3 of the Rules, an issuer must ensure equal treatment of investors concerning access to information covered by the Rules, and treat and store information so as to ensure that any unauthorised persons do not have access to such information before it is made public. Since the decision in question was made in an open meeting and the media published information on the decision on that same date, i.e. the day before the issuer made public its announcement to the same effect, the Exchange contends that the issuer failed to maintain equal treatment of investors and thereby violated Article 4.1.3.

As mentioned above, the Municipality took the view that it had published the information without undue delay, municipal meetings were held in public and no announcement had been sent to the media. The Municipality's views submitted for the Disciplinary Committee proceedings are set out in a letter dated 2 January 2015 to the Exchange. The letter argues that the Municipality should be considered as distinct from ordinary issuers, given its stringent legal environment. Under Article 16 of the Local Government Act, municipalities are obliged to hold their meetings in public, in addition to which the meetings of the Kópavogur Municipal Council are broadcast live on radio. In certain instances, the scope to prepare decisions is limited compared with that of entities that hold closed board meetings.

The Municipality's letter further argues that Section VII of the Local Government Act, which deals with municipal finances, imposes narrow restrictions on municipalities' activities. This includes the requirement that municipalities submit a budget for one and three years at a time. A municipality's budget for the immediately following year has a binding effect upon the allocation of funds.

The letter further mentions that significant restrictions apply to municipalities' rights to provide security for liabilities. They must not pledge as security their revenue or assets necessary to perform their statutory tasks or grant guaranties for third parties. Municipalities are permitted to grant guaranties of collection only, and then only in favour of organisations and companies wholly owned by the municipality in question or co-owned with other municipalities.

The letter further mentions that municipalities cannot be subjected to bankruptcy proceedings, unlike companies in the market. Enforcement actions cannot be instituted against assets that are necessary for municipalities to perform their statutory tasks. Furthermore, the letter points out that municipalities are subject to financial

regulation by the Ministry of the Interior, cf. Section VIII of the Local Government Act.

The Municipality of Kópavogur considers it clear that municipalities are in a different position as issuers in the market than are general companies. For this reason, it argues, municipalities must be given scope to decide whether unexpected decisions require an announcement to the Exchange. Only around four hours passed from the markets' opening until the announcement was received by the Exchange. The Municipality argues that the risk posed to investors was, therefore, negligible when regard is had to financial supervision and the legal framework.

III.

This case centres around a dispute over whether an announcement by the Municipality of Kópavogur, concerning a Municipal Council resolution adopted on 14 January 2014, was sent to the Exchange without delay or as soon as possible. As related above, the status of the resolution remains unchanged.

Article 4.1.2 of the Rules for Issuers of Financial Instruments specifies their objective as ensuring that investors have access at all times to the latest information necessary to form an opinion of the investment options on offer. Therefore, the management of the issuer concerned must always make every effort to make public any information that, in the management's estimation, could have a significant impact on the market price of the issuer's securities. An issuer must also ensure equal treatment of investors as regards access to information covered by the Rules and must treat and preserve information so as to ensure that any unauthorised persons do not have access to such information before it is made public, cf. Articles 4.1.3 of the Rules. Under Section 4.1.4 of the Rules, an issuer must publish without delay, or as soon as possible, all information stipulated by the Rules. Under Article 4.2.1 of the Rules, an issuer must make every effort to make public without delay previously unpublished information on decisions or events that it knew or should have known would have a significant impact on the market value of its bonds.

The Kópavogur Municipal Council's resolution on housing matters was adopted on 14 January 2014; the Municipality had a duty to disclose this information. The decision received media coverage in, among other things, an article published on the online newspaper site mbl.is at 22:54 hours on 14 January 2014. It was not until 13:39 hours on 15 January 2014 that the Municipality first made public an announcement on the Municipal Council meeting held on 14 January 2014, to call attention to the

Municipal Council resolution on housing provision. When assessing whether information was published “without delay or as soon as possible” within the meaning of Article 4.1.4 of the Rules, the issuer must be granted certain scope to assess whether the information is of a nature triggering the disclosure requirement. Clearly, the information regarding the Municipal Council’s resolution was not published until four hours after markets opened on the following day. The Disciplinary Committee finds that the information was not disclosed “without delay or as soon as possible” within the meaning of the provision. The assessment of this aspect should bear in mind the question, referred to in the Exchange’s comments, whether any after-market-close disclosure was made before the markets opened on the following trading day.

The Disciplinary Committee finds that the rule under Article 16 of the Local Government Act, to the effect that municipal council meetings must be open to the public, does not alter the obligations incumbent on the Municipality of Kópavogur as an issuer of bonds. As stated above, however, the issuer has certain scope to assess whether the information is of a nature triggering the disclosure requirement. Nonetheless, the issuer must be required to ensure that proper procedures are in place to enable this assessment to be made within reasonable time limits. Note should also be taken that the stringent requirements with regard to municipal finances also do not alter the Municipality’s obligations as an issuer of bonds.

In accordance with the foregoing, the Disciplinary Committee finds that the issuer has violated Articles 4.1.2, 4.2.1 and 4.1.4 of the Rules. The Committee also finds that equal treatment of investors was compromised because the Municipal Council’s housing resolution was made in an open meeting and information on the resolution was published that same day in the media, i.e. the day before the issuer made public its announcement to the same effect. Therefore, the Municipality of Kópavogur is found to have violated Article 4.1.3 of the Rules.

With reference to the above, it is found proper to reprimand the Municipality of Kópavogur publicly for the aforesaid violations of the Exchange Rules. The decision to issue a public reprimand is made on the basis of an agreement between the issuer and the Exchange on the admission to trading of the issuer’s securities on the Exchange, cf. Article 8.3 of the Rules. Point 4 of the Article states, among other things, that in cases where an issuer is in breach of the Rules, the Exchange may make a public announcement on the case in question.

Decision:

A public reprimand shall be issued against the Municipality of Kópavogur for violating Articles 4.1.2, 4.2.1, 4.1.4 and 4.1.3 of the Rules for Issuers of Financial Instruments.