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NASDAQ STOCKHOLM'S	Decision	19 March 2017
DISCIPLINARY COMMITTEE	2017-02	

Nasdaq Stockholm

Hexagon AB

Decision

The Disciplinary Committee orders Hexagon AB to pay a fine to Nasdaq corresponding to annual fees for two years.

Motion

The shares in Hexagon AB (publ) (Hexagon or the "Company") are admitted to trading on Nasdaq Stockholm AB's (the "Exchange") regulated market, Nasdaq Stockholm. Hexagon has signed an undertaking to comply with the Exchange's Rule Book for Issuers applicable from time to time (the "Rule Book").

The Exchange has claimed that Hexagon violated section 3.1 of the Rule Book by failing to disclose information as soon as possible regarding a police investigation against Ola Rollén once conditions no longer existed for a delayed disclosure in accordance with Article 17(4) of Regulation (EU) No 596/2014 of the European Parliament and of the Council ("MAR").

The Exchange has further claimed that Hexagon violated section 3.1 of the Rule Book by failing to include information in the press release on October 31, 2016 at 8.15am regarding how the Company intended to handle the CEO of Hexagon considering the Norwegian police investigation and detention order issued by the Oslo District Court.

The Exchange has referred the matter to the Disciplinary Committee to assess the violations and impose a suitable sanction.

Hexagon has disputed that the Company has committed the alleged violations of the Rule Book. The Company has essentially stipulated to the actual circumstances but believes that it has applied the rules for delayed disclosure in accordance with Article 17(4) of MAR and that the press release on October 31, 2016 at 8.15am was correct, relevant, and clear in light of the information which the Company then had regarding the circumstances in connection with Ola Rollén's arrest and detention.

Proceedings in the matter were held before the Disciplinary Committee on March 1, 2017, whereupon the Stock Exchange was represented by Joakim Strid (Head of European Surveillance), Karin Ydén (Head of Issuer Surveillance), and Andreas Blomquist (Senior Legal Counsel).

Hexagon was represented by Johnny Andersson (Group General Counsel), Maria Luthström (Investor Relations Manager), *advokat* Hans Petersson, and *advokat* Lisa Fennhagen.

Following the hearing, Hexagon submitted the Swedish Financial Supervisory Authority's closing memorandum dated March 14, 2017 in respect of an investigation due to Hexagon's delayed disclosure, in which it was stated that the investigation was closed with no action being taken. The Exchange has commented on the closing memorandum by stating that the Financial Supervisory Authority at the time for the alleged violations lacked the authority to impose sanctions and thus had no reason to take a position on the merits in the matter.

The Disciplinary Committee's assessment

Background

On October 26, 2016, Hexagon's CEO, Ola Rollén, was arrested at Arlanda Airport. On October 27, 2016, at approximately 6:30pm, the Company (through its General Counsel) contacted the Exchange and informed it of the arrest, that the suspected crime involved inside trading, and that the Company had taken a decision to delay disclosure in accordance with Article 17(4) of the MAR. The Company stated that there was limited access to information regarding what had occurred, but that it was understood that this involved a transaction which Ola Rollén executed in October 2015, on his own behalf, in Next Biometrics Group ASA, a company listed on the Oslo Börs.

The Exchange has stated:

Delayed disclosure

In the conversation with the Exchange on October 27, 2016, Hexagon stated that the Company had decided to delay the disclosure in accordance with Article 17(4) of the MAR. At 4.05 pm on the next day, October 26, 2016, there was follow-up contact between Hexagon's General Counsel and the Exchange, whereupon the Company summarised the chain of events following Ola Rollén's arrest. Hexagon explained that Ola Rollén had been granted a reduction in the restrictions associated with the arrest and thus had been able, the same day, to present the Company's report for the third quarter of 2016. Ola Rollén was thereafter taken to Oslo. The Company stated that the detention hearing had been scheduled for 11.30am on October 29, 2016 and that the defence's intent was to request that the hearing be held *in camera*. The Company explained that Ola Rollén's Norwegian defence lawyers had stated that they regarded the suspicions against Ola Rollén as groundless. Hexagon stated that the work of producing a communications plan, including a draft press release, was underway. The Exchange pointed out, *inter alia*, that in any case, in connection with the detention hearing, the Company was probably obligated to reconsider the decision to delay the disclosure of the information and to reconsider the conditions for continued delay. The Exchange also stated that it, at that time, could be questioned whether the conditions for delayed disclosure could still be deemed to exist. Finally, the Exchange stated that depending on the outcome of the court decision regarding detention, Hexagon could, in its disclosure, need to address the purely operative aspects and consequences which a decision to detain Ola Rollén could have on the Company. On Sunday October 30, 2016, there were additional contacts between Hexagon and the Exchange, primarily for the purpose of checking up on the Company's disclosure to the market in respect of the current circumstances. At 7.30pm on Sunday October 30, 2016, Hexagon's General Counsel informed the Exchange by telephone that the Oslo District Court, on Saturday October 29, 2016, had ordered the detention of Ola Rollén and that the Company intended to disclose the information in due time prior to the opening of the Exchange on the following day, i.e. Monday October 31, 2016.

In a letter dated November 1, 2016 the Exchange requested Hexagon to submit documentation concerning the delayed disclosure and a statement regarding the Company's handling of the disclosure to the market on October 31, 2016.

According to the Company, Hexagon had received the public prosecutor's application for a detention order as early as October 27, 2016. Although it contained inaccurate information regarding the status of the parties to the transactions which the prosecutor argued constituted inside trading, the application

for a detention order as such was not unclear or erroneous. In other words, it must have been clear to Hexagon that the public prosecutor had requested that the Oslo District Court order that Ola Rollén be detained on suspicion of having committed inside trading, even though certain details were not fully elucidated. The fact that the Company or Ola Rollén's lawyer took a position different to that of the public prosecutor regarding Ola Rollén, is of no significance to the question of whether it can be deemed to have been clear to the Company what the suspicions of criminal acts consisted of and that a motion had been made to detain Ola Rollén on the basis of this suspicion. Accordingly, Hexagon must be deemed, in any event in connection with the Company's receipt of the application for a detention order, to have had sufficient information regarding the relevant circumstances in order to disclose information to the market which was clear and not misleading, even though certain details remained. Accordingly, the Exchange argues that the legitimate interests as per Article 17(4)(a) of the MAR, as these were formulated by the Company in the documentation regarding the delayed disclosure – i.e. that the information was meagre, contradictory, and changed quickly, as well as the fact that neither the police nor the public prosecutor had confirmed that factual circumstances for the Company – cannot be deemed to have existed after the Company had received the application for a detention order on October 27, 2016. Therefore, from such time, the conditions did not exist for the Company to delay the disclosure. In the Exchange's opinion, the Company should have consequently, in connection with having received the application for a detention order, disclosed the information as soon as possible in accordance with section 3.1.1 of the Rule Book.

Hexagon has stated that on the morning of October 27, 2016, Swedish and Norwegian police conducted a search of the premises in Ola Rollén's office at Hexagon's premises in Stockholm and of the Company's server. Accordingly, there must have been a risk that outsiders, in any event, obtained some knowledge of the ongoing police investigation, notwithstanding that the police who participated in the search of premises were not in uniform. Consequently, one can question whether, following the search of the premises, the Company could ensure that the information remained confidential in accordance with Article 17(4)(c) of the MAR.

Under any circumstances, it was clear that following the detention order of October 29, 2016, it was no longer likely that immediate disclosure would prejudice the Company's legitimate interests and that the information should thus have been disclosed as soon as possible. A two-day delay between an incident and disclosure cannot be deemed consistent with the requirement that the information be disclosed as soon as possible in accordance with section 3.1 of the Rule Book. The Company's desire to coordinate the announcement with Ola Rollén's Norwegian defence counsel and Melker Schörling AB, or the fact that the disclosure would have had less effect if made over the weekend is of no significance to the question

of whether the disclosure took place as soon as possible. Accordingly, Hexagon has violated section 3.1 of the Rule Book.

The issue of the criminal law assessment of the suspicions against Ola Rollén must be kept separate from the disclosure obligation in respect of Ola Rollén's arrest and the grounds for the arrest. There was sufficient information in the application for a detention order. It is up to the Company to determine whether the conditions for delayed disclosure exist and the grounds for the uncertainty as a reason for the delay are the Company's responsibility.

The press release of October 31, 2016, 8.15am

Pursuant to an agreement with the Company, the Exchange received a draft of the press release which was to be published on Monday 31 October 2016. The Exchange stated to the Company that the draft was utterly lacking information regarding the way in which the Company intended to handle the situation of Hexagon's CEO and whether Ola Rollén would continue in that position. It was the Exchange's understanding that the Company confirmed that these questions would be addressed in the press release. On Monday October 31, 2016 at approximately 6.15am, the Exchange contacted Hexagon's General Counsel and presented additional minor comments regarding the draft press release which had been provided to the Exchange the prior evening. The Exchange also stressed the overall importance of transparency and that, following the disclosure, the content of the press release would constitute the framework for the Company's direct communication with media and other interested parties.

On October 31, 2016 at 8.15am, Hexagon published a press release: "Ola Rollén is under investigation by Norwegian authorities for inside trading unrelated to Hexagon". In light of the fact that the press release did not contain any of the type of information which the Exchange had previously sought, i.e. how the Company intended to address the issue of Hexagon's CEO and whether Ola Rollén would continue to hold that position, the Exchange contacted Hexagon's General Counsel, by email, immediately after the publication and stated that these details were regarded as material and *per se* price-sensitive in respect of the Company's share. The Company was thus requested to issue a press release with supplementary information. Hexagon's General Counsel replied at 8.36am and confirmed that a supplementary press release would be issued. This took place at 9.08am: "Clarification regarding this morning's press release regarding Ola Rollén", which contained the information which the Exchange had requested the prior evening.

The press release which Hexagon published on October 31, 2016 at 8.15am was completely void of information regarding how the Company, as a consequence of the Norwegian police investigation and detention order issued by the Oslo District

Court, intended to address the question of Hexagon's CEO and whether Ola Rollén would continue to hold that position, notwithstanding that in its contacts with the Company the prior evening, the Exchange had pointed out the importance of including the information. It is clear that these details were necessary to enable the market to make a complete, correct, and adequate assessment of the impact of the information on the Company, especially considering that a detained CEO, for obvious reasons, cannot be deemed in possession of the prerequisites for attending to the day-to-day management of a listed company, and that the suspected crimes were such as could be deemed to create uncertainty regarding the Company and its senior management. By virtue of the insufficient information in the press release, Hexagon has acted contrary to the provisions of section 3.1 of the Rule Book.

Both of Hexagon's press releases on October 31, 2016 contain references that the information was such that the Company was obligated to disclose in accordance with MAR. The announcement also had a negative significant effect on the price of the Company's share and, when the Exchange closed on that same day, the price was down 9.8 per cent as compared with the closing rate on the preceding trading day.

Information regarding the CEO of a company is sufficiently material to warrant a separate rule in the Rule Book (section 3.3.9).

Hexagon has stated:

Delayed disclosure

Hexagon had limited access to information regarding what had occurred due to a non-disclosure order, a decision which was taken by the Norwegian prosecutor and enforced by the Swedish prosecutor. Hexagon made no assessment of the suspicions of crime; instead this was done by the Norwegian lawyers who communicated their assessment to Hexagon. The search of premises which was carried out by three plainclothes police officers (two Norwegian and one Swedish) was more in the nature of a meeting, and its purpose was to ensure access to certain information on Hexagon's email server.

It was not until late in the evening on October 26, 2016 that an inspector on duty confirmed information which Ola Rollén's wife had previously provided to Hexagon, namely that Ola Rollén had been arrested by the police, and that the Company could receive additional information at 7am on the next day from a specific named person at the Swedish Economic Crime Authority (EBM). When Hexagon contacted the EBM on the morning of October 27, 2016, Hexagon received information regarding the subject matter of the suspicion and that a search of the premises would take place at 8am at Hexagon's premises, in Ola Rollén's room and on his email server. Hexagon read the decision regarding a Norwegian

arrest warrant for Ola Rollén and noted that the arrest warrant contained an erroneous party status in respect of the transaction, which was crucial for the legal determination of Ola Rollén's liability for the alleged inside trading. Hexagon was also able to visit Ola Rollén in detention. It was difficult for Hexagon to prepare for the type of situation which arose at the same time as new rules entered into force and there were no guidelines from the Exchange. Hexagon took measures to prepare for information leaks.

By virtue of the detention order dated October 29, 2016, the Company believed that the informational situation had, *per se*, become clear. The conflict between the Company's obligation to provide information and the Company's possibilities to receive information as a result of the non-disclosure order in respect of information involved in the investigation remained. There were also potential opposing interests of Ola Rollén and Hexagon to consider. Since no discussion could be had with Ola Rollén, discussions were held with Ola Rollén's defence counsel regarding which information could be disclosed. The 31 October, 2016 press release also contained a reference to a statement by the Norwegian defence lawyers regarding their view of the suspicions of crime. It appeared to the Company to be more suitable to choose a time for the disclosure when more relevant and clear information could be provided by including the subject matter of the suspected criminal activity. In light of the fact that the detention order was issued midday on Saturday, the Company could continue to work to obtain information and issue a press release before the Exchange opened on Monday. Moreover, a disclosure during the weekend would have considerably less effect than disclosure during a trading day and it could, quite plainly, lead to a risk that the information would be released in a discriminatory manner. Throughout the weekend, strict confidentiality was maintained in respect of the matter. According to the defence lawyers, it was not possible for a third party to legally gain access to any information whatsoever regarding the detention order.

Following the detention order, preparations were made for the announcement at 8am on October 31, 2016. The publication took place as soon as possible. There had not been any information from the Exchange regarding a stricter interpretation of the term "as soon as possible". Prior to the Financial Supervisory Authority's forum, the market did not believe that the meaning of the term "as soon as possible" had changed. From a contract law perspective, Hexagon acted correctly when waiting with the press release until the first trading day after the weekend. The Exchange also did not, during the ongoing contacts between Hexagon and the Exchange, state the opinion that the conditions for delayed disclosure did not exist.

The press release of October 31, 2016 at 8.15am

Pending the planned announcement, Hexagon met with representatives of the Company's primary owners, Melker Schörling AB and Brunswick on the night of Sunday October 30, 2016 *inter alia* regarding the announcement and the implementation of an established communication plan. In respect of the issues which the Exchange addressed the same evening regarding who would serve as CEO while Ola Rollén was impeded and whether Ola Rollén would remain in his position as CEO, the general impression was that the questions were satisfactorily answered in the draft press release which had been prepared. In the draft, the chairman of the board of directors, Melker Schörling, together with Melker Schörling AB expressed strong support for Ola Rollén. The draft was intended to be further linked to a separate press release from Ola Rollén's defence lawyers. The Company assumed that the market would understand that the time during which Ola Rollén would be indisposed to serve as CEO would be limited. The Swedish Companies Act provides that it is incumbent on the board of directors to be responsible for the day-to-day management when the CEO is indisposed or to cause a deputy CEO to step in, which also occurred. The fact that the Company complies with applicable law and other applicable regulations such as, in this case, allowing a deputy CEO to step in, need not be confirmed in a press release. Since there was an adjudicated outside limit of one week in respect of the detention period, the Company believed that its business during such limited time could be conducted without operational difficulties.

Considerations

Section 3.1 provides that an issuer shall, as soon as possible, disclose inside information in accordance with Article 17 of the MAR.

The Guidance provided for section 3.1 of the Rule Book states that information which is disclosed must be correct, relevant, and clear, and may not be misleading. Information regarding decisions, facts, and circumstances must be sufficiently comprehensive to enable an assessment of the significance of the information in respect of the issuer and its financial instruments. Omitted information may also cause the issuer's announcement to be inaccurate and misleading.

Article 17(4) of the MAR prescribes that the issuer may, on its own responsibility, delay disclosure to the public of inside information, provided that the following conditions are met:

- a) immediate disclosure is likely to prejudice the legitimate interests of the issuer;
- b) a delay of disclosure is not likely to mislead the public;
- c) the issuer is able to ensure the confidentiality of the information.

In principle, there is no dispute regarding the actual chain of events. The investigation shows that Hexagon, in connection with the Company receiving information that Ola Rollén had been arrested at Arlanda at 5.30pm on October

26, 2016, took a decision to delay the disclosure of the arrest due to meagre, contradictory information which was subject to rapid changes. The decision also makes clear that, in the interest of disclosing correct information which was not misleading, Hexagon intended to gain control over the situation by not disclosing information until relevant facts could reasonably be confirmed. During the proceedings before the Disciplinary Committee Hexagon explained – contrary to what Hexagon had stated in its November 14, 2016 correspondence to the Exchange discussing erroneous information in an application for a detention order – that on the morning of October 27, 2016, the Company, through its contact with EBM and the search of the premises at Hexagon, read the Nordic arrest warrant and thereby learned of the specific criminal activity of which Ola Rollén was suspected as well as the transaction involved. The Disciplinary Committee finds that at such time, the conditions no longer existed for a delayed disclosure in accordance with Article 17(4) of the MAR since the legitimate reasons stated in the Company's decision to delay no longer existed at that time. It had been clarified that Ola Rollén had been detained on grounds of suspicion of inside trading in a transaction which Ola Rollén carried out in October 2015 on his own behalf in Next Biometrics Group ASA. The circumstances were sufficiently concrete that Hexagon's legitimate interests could not have been prejudiced had the Company provided information that the Company's CEO had been arrested on the grounds of suspicion of inside trading. The conditions for a delayed disclosure did not exist. The obligation to disclose information therefore attached immediately. The legal determination made by Hexagon and the Norwegian lawyers regarding any criminal liability for Ola Rollén is irrelevant in respect of the obligation to provide information about the arrest and the reason for it.

In respect of the press release on October 31, 2016 at 8.15am, which stated that Hexagon's CEO had been detained for inside trading related to his private investments, in order for the information to be deemed relevant and clear – irrespective of the chairman of the board's statement of confidence in Ola Rollén – the press release needed to contain information regarding a clearly material issue such as how, in light of the Norwegian police investigation and the detention order issued by the Oslo District Court, the Company intended to handle the issue of Hexagon's CEO. In the same way, the issue of who would be responsible for the day-to-day management of the Company during the CEO's absence should have been included in the press release in order for it to be deemed relevant and clear in light of the reason for the CEO's absence.

In summary, the Disciplinary Committee finds that Hexagon has violated rule 3.1 of the Rule Book. In light of the surprising and difficult situation in which Hexagon found itself and that a new regulatory framework applied to this situation, the Disciplinary Committee finds that the sanction can be limited to a

fine corresponding to annual fees for two years.

On behalf of the Disciplinary Committee

A handwritten signature in blue ink, appearing to read 'Marianne Lundius', with a stylized flourish at the end.

Marianne Lundius

Former Justice of the Supreme Court Marianne Lundius, Justice of the Supreme Court Anne-Christine Lindeblad, MBA Ragnar Boman, Company Director Carl Johan Högbom, and Company Director Jack Junel participated in the Committee's decision.