

# Finansinspektionen's Regulations

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**FFFS 2004:2**

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## **Finansinspektionen's (the Swedish Financial Supervisory Authority) Regulations Governing Investment Funds;**

decided on 12 March 2004.

Finansinspektionen hereby<sup>1</sup> prescribes as follows pursuant to the Investment Funds Ordinance (FFS 2004:75).

Unless otherwise stated, the same definitions are used in these provisions as in Chapter 1, section 1 of the Investment Funds Act (SFS 2004:46).

### **Part I Authorisation to conduct operations**

#### **Chapter 1. Application for authorisation to conduct operations**

##### *Generally*

§ 1 The provisions of this Chapter relate to the procedure in conjunction with applications for authorisation to:

1. conduct fund operations;
2. engage in management of another party's financial instruments; and
3. accept engagements from Swedish management companies, foreign management companies, or foreign collective investment undertakings.

The provisions shall also apply, where applicable, to the procedure in conjunction with a Swedish management company's application for authorisation to establish a branch in a country outside the EEA.

##### *Formulation of the application*

§ 2 The application shall state the authorisation or authorisations that the company wishes to hold. The application shall be signed by an authorised representative of the company.

§ 3 The following documents shall be appended to an application:

1. Board minutes evincing that the Board of Directors has approved the application;
2. certificate of registration for the company, which is not more than two months old, evincing that the company has an initial capital corresponding to not less than 125,000 euro;
3. a copy of articles of association setting forth the objects of the operations to be conducted by the company;

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<sup>1</sup> Cf. Council Directive 85/611/EEC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities and Directives 2001/107/EC and 2001/108/EC of the European Parliament and of the Council of 21 January 2002.

4. minutes from the general meeting at which the articles of association were adopted;
5. copies of any delegation agreements;
6. a business plan, prepared in accordance with sections 4–28;
7. four copies of fund rules with respect to the investment fund or funds to be managed;
8. simplified prospectuses prepared in accordance with the provisions of Chapter 13;
9. draft full prospectuses prepared in accordance with the provisions of Chapter 14; and
10. Board minutes or written information stating the Board meeting at which the fund rules were adopted.

### ***Content of the business plan***

#### *The company's operations*

**§ 4** The business plan shall contain a detailed description of the company's operations, with an indication whether the company conducts fund operations, manages another party's financial instruments or accepts engagements to perform certain work or certain functions from Swedish management companies, foreign management companies or foreign collective investment undertakings.

The content of the business plan shall be adapted to the type of operations conducted by the company. The business plan shall be adapted to any operations conducted from branch offices.

A securities company or Swedish credit institution which intends to conduct fund operations in accordance with Chapter 1, section 5 of the Investment Funds Act (SFS 2004:46) shall, in the business plan, describe the fund operations and the manner in which such operations are organised in relation to other operations.

#### *Delegation agreements*

**§ 5** In the event the company has delegated to other party to perform parts of the operations, the business plan shall, where appropriate, refer to such engagement.

The business plan shall contain a detailed list of the delegation agreements entered into by the company which relate to the operations. The following information shall be provided with respect to each delegation agreement:

1. the nature and scope of the engagement;
2. conditions on which the engagement is based;
3. the expertise and skills of the contractor with reference to the delegation agreement;
4. the contractor's legal status;
5. other significant operations of the contractor; and
6. such circumstances as may give rise to a conflict between the interests of the contractor and the interests of the principal or interests of holders of units in collective investment undertakings.

The delegation agreements into which the company has entered or intends to enter shall be appended to the business plan.

#### *Ownership list*

§ 6 An ownership list stating the company's ownership structure shall be included in the business plan. A natural person who is the owner of a qualifying holding of shares or interests in accordance with Chapter 1, section 1, subsection 17 of the Investment Funds Act (SFS 2004:46) shall append *Appendix 1*. Where the owner is a legal person, *Appendix 2* shall be appended instead.

#### *Group description*

§ 7 Where a company which conducts fund operations is included in a group, the business plan shall include a separate description of the ownership structure in the group. Information shall be provided regarding all stages included in any ownership chain.

The ownership structure shall be illustrated through a group diagram. Information shall also be included where the company has close relations with any legal or natural person in the manner stated in Chapter 1, section 2 of the Investment Funds Act (SFS 2004:46).

#### *Management list*

§ 8 The business plan shall contain information regarding the members of the Board of directors, stating the identity of the chairman of the Board of Directors. Information shall also be provided regarding the identity of the Managing Director, the deputy Managing Director as well as other senior officers. "Senior officer" means, for example, a compliance officer as well as other persons with specific functional responsibility, for example, a responsible manager.

Information shall be provided regarding the education as well as earlier and current experience of financial operations possessed by every person included in the management list. Information shall also be included regarding any engagements and ownership interests in another institution within the financial sector or in a stock market company.

With respect to any Board member, alternate member, Managing Director or deputy Managing Director, *Appendix 3* shall be appended for a management assessment by Finansinspektionen.

#### *Organisation*

§ 9 The business plan shall contain a diagrammatic outline of the bodies created by the Board of Directors together with information regarding the number of persons active within each body. A general description shall also be provided as to the measures and functions performed within various bodies.

The business plan shall contain information regarding the number of employees, broken down by various functions. A description of responsibility and position shall be provided with respect to employees with specific functional responsibility.

#### *Economic situation*

§ 10 A Swedish management company shall, in the business plan, provide information regarding estimated fixed costs in accordance with Chapter 3, section 4 with respect to the first financial year. Where the operations have been conducted over a period of more than one year, the business plan shall be regularly updated with information regarding fixed costs for the preceding year.

A Swedish management company shall also, in the business plan, present a forecast with respect to the next following three business years which describes the manner in which the company intends to finance the operations, particularly in respect of the initial capital selected by the Swedish management company.

*Information system and security issues*

§ 11 The business plan shall contain information regarding the information systems used and the manner in which IT operations are organised. The information shall relate both to manual information systems and IT systems. A general description shall be provided regarding the functions and areas of use of the systems.

Information shall also be provided regarding the measures to be taken with respect to information security and physical security. In such context, a description shall be provided of the confidentiality protection functions which are used in order to prevent unauthorised persons from obtaining access to classified information.

*Conflicts of interest*

§ 12 The business plan shall contain a description of the conflicts of interest identified by the company in the operations.

*Administrative processes*

§ 13 The business plan shall contain a general description of the administrative processes in the operations. The description shall include a description of the manner in which a transaction is handled throughout the processing chain and the manner in which the work which is performed by a department or by a particular officer is subject to independent control by a third party (the duality principle).

*Risk management plan*

§ 14 The business plan shall contain a general description of the company's governance and internal risk controls (risk management plan). The risk management plan shall describe the main risks associated with the operations and the manner in which such are to be managed. The relevance of the risks for the operations shall be described and presented systematically in the same manner as stated in Chapter 5, section 3, second paragraph.

*Risk management system regarding market risks*

§ 15 The business plan shall contain a general description of the manner in which the company shall manage and limit various market risks which exist in the fund management (risk management system). To the extent the company has identified market risks in the other operations, the risk management system shall be adapted thereto.

*Risk control function*

§ 16 The business plan shall set forth the identity of the person responsible for the operations' risk management system.

*Compliance Officer*

§ 17 The business plan shall state the identity of the compliance officer.

*Independent review*

§ 18 The business plan shall contain information as to the identity of the person who carries out the independent review function.

*Auditor*

§ 19 The business plan shall state the identity the external auditor.

*Complaints management*

§ 20 The business plan shall contain information regarding the identity of a complaints officer.

*Guidelines for management of ethical issues*

§ 21 The business plan shall contain a reference to the guidelines applicable to ethical issues relating to the operations.

*Transactions in financial instruments, etc. by employees and closely-related persons*

§ 22 The business plan shall contain a reference to the rules that the company intends to apply concerning transactions in financial instruments and foreign currency by employees and closely-related persons. The business plan shall state the identity of the person appointed by the Board of Directors or the management with responsibility for the control, as well to whom such person shall, in turn, report his or her own transactions and those of closely-related persons.

*Events of material significance*

§ 23 The business plan shall contain a reference to the guidelines used for the management and reporting of events of material significance.

*Management of another party's financial instruments*

§ 24 A Swedish management company which, in its operations, conducts the management of another party's financial instruments shall provide a detailed description of such operations in the business plan. The description shall state:

- the categories of financial instruments to be covered by the management;
- the customer categories to which the company intends to turn;
- the identity of the party retained to manage customers' depository accounts; and
- the insurance as stated in Chapter 2, section 21, second paragraph of the Investment Funds Act (SFS 2004:46).

A copy of the signed insurance policy and the insurance terms and conditions shall be appended to the business plan.

*Receipt of units in collective investment undertakings for sake-keeping*

§ 25 A Swedish management company which, in its operations, receives units in collective investment undertakings for safekeeping shall, in the business plan, describe the technical systems used as well as the routines applied with respect to the registration of the owners' holdings.

*Receipt of assets subject to a reporting obligation*

§ 26 A Swedish management company which, in its operations, receives assets subject to a reporting obligation shall, in the business plan, provide a general description of the manner in which it is ensured that assets are kept separate and deposited in an account at a credit institution.

*Rendering of investment advice*

§ 27 A Swedish management company which, in its operations, provides investment advice which relates to such financial instruments as referred to in Chapter 5 of the Investment Funds Act (SFS 2004:46) shall, in the business plan, provide a general description of the company's guidelines with respect to such operations.

*Instructions and guidelines*

§ 28 The instructions and guidelines which must be in place for the operations pursuant to the provisions of Chapters 5–9 shall be appended to the business plan.

***Application to establish a branch office outside the EEA***

§ 29 A Swedish management company which manages UCITS and which wishes to establish a branch office outside the EEA shall notify Finansinspektionen prior to commencement of the operations. *Appendices 4 and 5* shall be used in conjunction with the notification.

**Chapter 2. Procedures subject to a notification obligation**

*Delegation agreements*

§ 1 Notification pursuant to Chapter 4, section 7 of the Investment Funds Act (SFS 2004:46) by a company which conducts fund operations shall contain the information stated in Chapter 1, section 5, second paragraph. A copy of the agreement governing the engagement shall be attached as an appendix to the notification.

Notification to Finansinspektionen shall take place not later than one month prior to the date on which the company intends the agreement to enter into force.

*Branch operations and cross-border operations within the EEA*

§ 2 *Appendices 4 and 5* shall be used in conjunction with notifications by a Swedish management company in accordance with Chapter 2, sections 12 and 15 of the Investment Funds Act (SFS 2004:46).

**Chapter 3. Capital requirements for Swedish management companies**

*Generally*

§ 1 The provisions of this Chapter shall be applied when calculating the items referred to in Chapter 2, sections 4, 8, 9 and 11 of the Investment Funds Act (SFS 2004:46).

*Initial capital*

§ 2 A Swedish management company's initial capital pursuant to Chapter 2, section 4 of the Investment Funds Act (SFS 2004:46) means the Swedish management company's share capital.

*Own funds*

§ 3 A Swedish management company's own funds shall be calculated in accordance with the items included in capital base of securities companies pursuant to Chapter 2 of the Capital Coverage and Large Exposures Act (FFFS 1994:2004) as well as Chapter 2 of Finansinspektionen's Regulations and General Guidelines (FFFS 2003:10) regarding Capital Coverage and Large Exposures.

*Fixed costs*

§ 4 A Swedish management company's fixed costs shall include personnel costs, costs for delegated operations, property and premises costs, other fixed contract costs for equipment and suchlike, as well as depreciation.

**Part II Sound practice****Chapter 4. Ownership and management assessment***Generally*

§ 1 The provisions of this Chapter describe the information which is to be provided in respect of Finansinspektionen's suitability assessment of new owners, new Board members and senior officers of a Swedish management company. Such information shall be provided in conjunction with:

1. applications for authorisation pursuant to Chapter 10, section 4 of the Investment Funds Act (SFS 2004:46);
2. notifications pursuant to Chapter 10, section 8 of the Investment Funds Act (SFS 2004:46); and in conjunction with
3. the appointment of any new Board member, alternate Board member, Managing Director or Deputy Managing Director of a Swedish management company.

*Applications for authorisation pursuant to Chapter 10, section 4 of the Investment Funds Act (SFS 2004:46)*

§ 2 Where a natural person applies for authorisation pursuant to Chapter 10, section 4 of the Investment Funds Act (SFS 2004:46), Appendix 1 shall be used. Where a legal person applies, Appendix 2 shall be used instead with respect to the legal person and Appendix 3, where applicable (questions 1 and 3–12), with respect to the legal person's Board members, alternate Board members, Managing Director and Deputy Managing Director.

*Notification pursuant to Chapter 10, section 8 of the Investment Funds Act (SFS 2004:46)*

§ 3 The information stated in sections 1 and 3-12 of Appendix 3 shall be appended to a notification pursuant to Chapter 10, section 8 of the Investment Funds Act (SFS 2004:46).

*New Board members, etc. in a Swedish management company*

§ 4 A Swedish management company shall notify Finansinspektionen upon the appointment of a new Board member, alternate Board member, Managing Director or Deputy Managing Director. The information stated in Appendix 4 shall be appended to such notification.

**Chapter 5. Governance, internal information and internal control**

*Generally*

§ 1 The Board of Directors of a company which conducts fund operations is ultimately responsible for the operations. The Board shall establish goals and strategies with respect to the operations. The Board of Directors shall adopt written instructions for governance and internal information with respect to the risks included in the central business areas as well as with respect to bodies and functions. The Board of Directors shall also adopt guidelines regarding the manner in which the internal control shall be organised.

*Governance*

§ 2 The Board of Directors shall ensure that the objectives and organisation of the operations are reviewed regularly and that major changes are processed by the Board of Directors.

§ 3 The Board of Directors shall ensure that governance and monitoring of risks in the operations are of a satisfactory scope. For this purpose, general guidelines shall be adopted with respect to management of the risks that arise in the operations. Written instructions must also be in place regarding governance and control of risks within central business areas. Compliance with the instructions shall be monitored regularly.

The instructions shall relate to the following risk areas:

- market risks;
- liquidity risks;
- credit and counterparty risks; and
- operating risks.

*Internal information*

§ 4 The Board of Directors shall ensure that an information system is in place which provides relevant information regarding the operations when deemed necessary.

*Internal control and compliance officer*

§ 5 A sound internal control entails that adopted routines are in place which ensure that the operations are conducted in accordance with laws and other provisions and in accordance with the instructions provided by the Board of Directors and Managing Director.

§ 6 A company which conducts fund operations shall have one or more compliance officers charged with the task of ensuring that, at any given time, employees and the Board of Directors are acquainted with the rules governing the operations that are conducted.



The Board of Directors shall ensure that the compliance officer reports directly to the Board of Directors or the management. In addition, the Board of Directors shall issue instructions as to when and how information regarding governing rules shall be provided to the Board of Directors and employees.

§ 7 A sound internal control entails the following:

- Control awareness shall be given priority and necessary expertise within the organisation shall be ensured;
- The Board of Directors shall ensure that instructions and routines are adopted and that employees are well acquainted therewith. Instructions and routines shall be documented and updated regularly;
- Control routines shall be in place in the organisation which provide information when developments within a particular business area deviate from the guidelines, instructions and routines that have been adopted;
- The allocation of responsibility and work shall be defined from a control perspective. Such allocation of responsibility and work is aimed at ensuring that no individual person shall single-handedly handle a transaction throughout the entire processing chain (the duality principle). The work which is performed by a body, a function or a particular officer shall be subject to independent control, entailing that the monitoring function shall be independent from the functions that are to be monitored;
- Guidelines and appropriate controls shall be in place to secure levels that have been decided upon with respect to information security and physical security and to ensure continuity in the operations;
- Appropriate internal information and reporting systems shall be in place to ensure that information received is current and relevant. The information and report systems shall provide officers or groups within the organisation with information regarding the operations, risk exposure within respective risk areas and produce data for monitoring and review of information of significance for each business area.

#### *Independent review*

§ 8 The Board of Directors shall ensure that a review function is in place which is independent from the operative business and organisationally directly subordinate to the Board of Directors or Managing Director. The review function's responsibilities, duties and reporting back of work performed shall be established by the Board of Directors in an instruction. In the event the review function is subordinate to the Managing Director, the Board of Directors shall ensure that the review function reports also to the Board of Directors.

The review function shall ensure that the scope and objectives of the operations are in accordance with the Board's guidelines. The review function shall review and evaluate organisation, routines, and internal controls. The review function shall possess specific expertise for reviewing and evaluating developments, operation and management of IT systems. Such reviews may appropriately be carried out by the internal audit or external consultants. In a group, there may be a joint review function for the parent company and subsidiaries.

## Chapter 6. Reporting of events of material significance

### *Generally*

§ 1 Events of material significance for a company which conducts fund operations shall be reported to Finansinspektionen. Such events include crimes, attempted crimes or preparations for a crime, as well as intentional or unintentional errors which are connected to the operations. When assessing what constitutes an event of material significance, the following, *inter alia*, shall be taken into consideration:

- the existence of a risk of significant financial loss;
- the existence of a threat to the company's vital functions;
- the event may result in, or has resulted in, serious, repeated or extended disruptions in any part of the operations, communications system or IT operations;
- there exists a risk that the company's credibility on the market will be jeopardised; or
- there exists a risk that many customers or employees will be detrimentally affected.

§ 2 Finansinspektionen shall be informed upon the discovery of a material event. A written report shall be provided within four weeks. The report shall be submitted by the Board of Directors or the Managing Director. The report shall contain the information set forth in *Appendix 6*.

§ 3 Where an auditor takes such measures as stated in Chapter 10, sections 39 and 40 of the Companies Act (FFFS 1975:1385), Finansinspektionen shall be notified thereof immediately.

### *Guidelines regarding management and reporting*

§ 4 The Board of Directors shall adopt written guidelines for management and reporting of events of material significance. The guidelines shall, *inter alia*, contain a decision-making and reporting procedure in such matters.

### *Reporting to the police authority or prosecutor*

§ 5 A report shall be filed with the police authority or prosecutor upon discovery of a suspected or established crime which is related to the operations.

## Chapter 7. Management of ethical issues

### *Generally*

§ 1 Each company which conducts fund operations shall adopt guidelines regarding the management of ethical issues in the operations. The guidelines shall cover the actions of employees in situations where, from an ethical perspective, appropriate behaviour may be unclear or where the legal rules in the area provide insufficient guidance.

The guidelines regarding the management of ethical issues shall be adopted by the Board of Directors and documented in an appropriate manner. They shall be reviewed regularly and revised as required.

*Scope of the guidelines*

§ 2 The guidelines regarding the management of ethical issues shall cover all of the company's operations. The guidelines shall be formulated based on the assumption that the operations shall be characterised by generally-accepted business practice and consistent behaviour, as well as a fair handling of the interests of the customer.

*Content of the guidelines*

§ 3 The guidelines shall address problem areas in which ethical issues may particularly arise. Furthermore, the guidelines shall contain management rules aimed at ensuring that the operations are conducted from time to time within the scope of the applicable rules and regulations and in an ethically acceptable manner.

The guidelines shall state the manner in which the company investigates that the operations are conducted in accordance with the management rules, particularly with respect to procedures which might be called into question from a moral, ethical or legal perspective.

§ 4 Guidelines regarding the management of ethical issues shall set forth the following:

1. practical instructions as to the manner in which the employees shall act in certain situations and to whom they shall turn in doubtful situations, e.g. immediate superior or the person appointed as adviser on ethical issues within the company; and
2. the manner in which securities and currency transactions by employees or closely-related persons, gifts and other benefits, engagements outside the service, etc. shall be handled.

*Monitoring, control and reporting*

§ 5 Monitoring of compliance with guidelines regarding the management of ethical issues shall take place within the scope of the internal review which is carried out pursuant to the Board of Directors' instructions.

Reporting routines shall be established within the company that ensure that the Board of Directors receives without delay information regarding issues involving matters of principle or other important issues which concern the operations and the behaviour of employees.

*Internal information and training*

§ 6 The company shall ensure that employees receive regular information and training regarding ethical issues.

**Chapter 8. Complaints management***Generally*

§ 1 A complaint means that a customer of a company which conducts fund operations expresses specific discontent, in an individual matter, regarding the

management of a financial service or product. In this context, general comments or general expressions of dissatisfaction shall not be regarded as complaints.

*Internal instructions*

§ 2 A company which conducts fund operations shall have in place complaint management instructions. The instructions shall be adopted by the Board of Directors or management. The purpose of the instructions is to ensure a well-functioning complaints procedure.

§ 3 The instructions shall describe the manner in which customers shall be treated in complaint matters and shall state the internal decision-making process with respect to complaint matters. The instructions shall further contain routines with respect to information and follow-up of complaints. The instructions shall be documented and disseminated internally within the organisation. The instructions shall be reviewed regularly and revised as required. This internal control function shall ensure that complaints management functions satisfactorily and in accordance with applicable instructions.

*Complaints manager*

§ 4 A functioning system shall be in place for contact with customers in complaints matters and there shall be one or more complaints officers.

*Information to customers*

§ 5 The customer shall be informed in an appropriate manner regarding the handling of complaints and the identity of the complaints officer. The information shall state the manner in which the customer shall submit a complaint. The customer shall be informed regarding the guidance which may be obtained from Swedish Consumers' Banking and Finance Bureau and through municipal consumers' advice officials. Where a complaint cannot be met, the complainant shall receive written information regarding the possibility to pursue the matter further. In addition, the customer shall be informed of the reasons for the rejection of the complaint. Such information shall be provided in writing upon request by the customer.

*Handling routines*

§ 6 Complaints shall be handled efficiently and attentively. Complaints shall be answered objectively and correctly upon written request by the customer.

*Handling times*

§ 7 Complaints shall be answered as quickly as possible. It is important to give particular consideration to the interest the complainant may have in obtaining a prompt response in order to secure evidence and take financial measures as a consequence of the complaint. Where an answer cannot be provided within 14 days, the complainant shall be informed within such time regarding the handling of the matter.

*Registration of complaints*

§ 8 Any complaints shall be registered in an appropriate manner. Such registration shall be compiled centrally within the operations in order, through co-ordination, to create a basis for appropriate follow-up.

*Documentation and archiving*

§ 9 The documentation of complaints shall be such that it is possible to subsequently trace the handling of a matter. The length of time during which the documentation shall be maintained shall be assessed based on the nature of the matter and the need for documentation in the matter.

*Follow-up and internal reporting routines*

§ 10 Complaint follow-up routines shall be in place. Through such follow-up, it is possible, in due time, to identify various problems and rectify them. A possibility is thereby also provided for rectification, preventative measures and information measures.

*Review of disputes*

§ 11 A dissatisfied customer shall be informed of the possibility to have a dispute tried by the National Board for Consumer Complaints or before a court of general jurisdiction. Information shall be provided not later than in connection with the rejection of a complaint.

## **Chapter 9. Transactions in financial instruments and foreign currency by employees and closely-related persons**

*Generally*

§ 1 A Swedish management company shall have rules with respect to transactions in financial instruments by employees and closely-related persons. The regulations shall cover transactions in which foreign currency is bought spot for a purpose other than payment for financial instruments, goods, services or travel.

In these regulations, "closely-related person" means a spouse or cohabitee as well as children who are minors and under the custody of the employee. "Closely-related person" also means legal persons with whom the employee, alone or together with any other person, has a significant commonality of interest and in which the employee exercises a significant influence.

Exceptions may be made in respect of employees of a branch in another country where such employees are covered by local rules in the area.

*The one-month rule*

§ 2 The rules shall state that employees - where they are not covered by the prohibition on short-term dealing set forth in section 15 of the Financial Instruments (Notification Obligation regarding Certain Holdings) Act (SFS 2000:1087) - who acquire financial instruments may dispose of such financial instruments at a profit not earlier than one month after the acquisition (the one-month rule). This provision shall also apply to the purchase of foreign currency.

§ 3 In the rules, exemptions from the one-month rule may be made in situations of a mandatory nature and where it is obvious that the purpose of the rules is not breached.

*Instructions regarding monitoring of the regulations*

§ 4 The Board of Directors or management of a Swedish management company shall issue instructions as to when and how monitoring of compliance with issued rules shall take place. The Board of Directors or management shall also appoint a person who is responsible for such monitoring.

## **Chapter 10. Specifically regarding the management of another party's financial instruments**

### *General provisions*

§ 1 Swedish management companies shall issue instructions regarding handling of conflicts of interest which, in connection with the performance of engagements on behalf of customers, arise in the management of another party's financial instruments.

§ 2 Swedish management companies shall at all times hold a customer's units in collective investment undertakings, which are acquired pursuant to Chapter 7, section 1, first paragraph of the Investment Funds Act (SFS 2004:46), separate from the Swedish management company's assets.

### *Liability insurance*

§ 3 A Swedish management company which manages another party's financial instruments shall maintain insurance with respect to the liability in damages that the company may incur in conjunction with the performance of such management and any services pursuant to Chapter 7, section 1, first paragraph of the Investment Funds Act (SFS 2004:46). Where such insurance must contain information regarding the insurance amount payable per occasion of loss, the maximum insurance amount which is payable per occasion of loss and the maximum insurance amount payable during a single year shall be stated.

§ 4 It must be possible to invoke the insurance before Swedish courts.

§ 5 The insurance terms and conditions shall entail that:

1. the insurance cover applies to losses which are caused during the term of the insurance;
2. the injured party may bring a claim for compensation pursuant to the insurance terms and conditions directly against the insurer, insofar as the injured party has not received compensation from the Swedish management company; and that
3. the compensation shall be paid directly to the injured party without any deduction for excess.

§ 6 Where the terms and conditions entail that the insurance, as a general rule, only indemnifies losses which are notified to the insurer while the insurance is in force, the terms and conditions for the insurance may deviate from the provision in section 5, subsection 1. The aforesaid may only take place where the insurance is combined with subsequent cover entailing that the insurance also covers losses which are notified to the insurer within two years of the expiry of the insurance and which are not covered by any other insurance.

### *Information from customers*

§ 7 Before a Swedish management company enters into an agreement with a customer regarding the management of another party's financial instruments, the company shall, to the extent required for the protection of the customer's interests, obtain information regarding the customer's risk profile, investment horizon and investment restrictions. The information shall be documented.

*Information to customers*

§ 8 A Swedish management company shall provide its customers with the information stated in sections 9–13. The information shall be correct and adapted to the customer's needs. The customer shall receive written information upon request.

§ 9 Prior to a Swedish management company performing a management service on behalf of a customer for the first time, the company shall provide information regarding:

1. the company's name, address, telephone number and e-mail address;
2. the name of the financial group of which the company is a part;
3. the existence of any conflicts of interest between the customer and the company and the manner in which, in such case, these are handled by the company;
4. whether the company is covered by any investor protection;
5. the manner in which complaints and claims for compensation from the customer are handled; and
6. that the company is under the supervision of Finansinspektionen.

§ 10 Prior to a Swedish management company performing a management service on behalf of a customer for the first time, the company shall provide information regarding the risks associated with the financial instruments and the management service which the company provides to the customer.

§ 11 Where a Swedish management company provides investment advice to a customer, such shall be documented in conjunction with the rendering of the advice. Such documentation shall be provided to the customer upon request. A Swedish management company shall have in place guidelines as to the manner in which the documentation shall take place.

"Investment advice" means, in these regulations, advice to a private customer which relates to investment in the types of assets referred to in Chapter 5 of the Investment Funds Act (SFS 2004:46). Furthermore, the advice shall be in the nature of a personal recommendation based on the company's information regarding the customer's financial situation, experience of the securities market and purpose of the investments.

§ 12 A Swedish management company which receives units in collective investment undertakings for safekeeping shall regularly provide the depository customer with account statements evincing the customer's holding of units in collective investment undertakings, unless otherwise agreed with the customer.

§ 13 Prior to a Swedish management company performing a management service on behalf of a customer, the company shall provide the customer with information regarding applicable prices and fees.

### **Part III Investment funds**

## Chapter 11. The content of the fund rules

### *Generally*

§ 1 Fund rules shall be in place for each investment fund. The fund rules shall have the content and comply with the format set forth in sections 2–16.

The following shall apply to investment funds whose fund rules are approved by Finansinspektionen pursuant to the Securities Funds Act (FFFS 1990:1114). The fund rules shall have the content stated in this Chapter, but the information need not be arranged in the order stated below.

### *The investment fund's legal status*

§ 2 The fund rules shall state the investment fund's name. Furthermore, the fund rules shall state whether the investment fund is a UCITS or a special fund pursuant to the Investment Funds Act (SFS 2004:46).

The legal nature of the fund shall be stated in the fund rules. It shall be stated that the fund holdings are owned by the holders of units in collective investment undertakings jointly and that each fund unit entitles the holder to an equal share in the holdings included in the fund. It shall also be stated that the company which manages the fund represents the unit holders in all issues which concern the investment fund and that the investment fund cannot acquire rights or assume liabilities.

In respect of special funds, information shall be provided as to whether the fund is intended for the public or a specifically defined and limited group of persons. Where the fund is intended for a specifically defined group of persons, the group shall be identified.

### *Fund manager*

§ 3 The fund rules shall state which Swedish management company, Swedish securities company or credit institution shall manage the investment fund.

### *Depository and its duties*

§ 4 The fund rules shall state which depository is retained on behalf of the investment fund. The duties of the depository shall be described in general.

### *The nature of the investment fund*

§ 5 The fund rules shall contain a general and summarised description of the nature of the investment fund with respect to the investment of the fund's holdings, goals and any strategies.

### *The investment fund's investment objectives*

§ 6 The fund rules shall contain a detailed description of the investment fund's investment objectives. The description shall enable an investor to assess the risks associated with the investment fund.

The investment fund's investment objectives shall be described using the following selection criteria:



1. The type of assets in which the investment fund may invest by way of reference to transferable securities, money market instruments, derivative instruments, units in collective investment undertakings, as well as deposits on account at credit institutions;
2. Whether the investment fund may invest only in a particular industry, geographic area, or in financial instruments issued by a particular issuer or suchlike;
3. Other objectively determined selection criteria.

The fund rules for a special fund shall state the respects in which the fund deviates from the rules applicable to UCITS as well as the limitations applicable to the fund. Information shall also be provided regarding the sought risk level and the risk benchmark used. The risk benchmark shall be relevant to the management operations which are conducted.

§ 7 The fund rules shall state the exchanges, marketplaces or markets on which the investment fund's holdings may be invested.

*Specific investment objectives*

§ 8 The fund rules shall specifically state whether the investment fund may use the following types of assets. It shall also be stated whether the investment fund does not have such a possibility.

1. Unlisted transferable securities and money market instruments.
2. Derivative instruments and, in such case, it shall be stated specifically whether derivative instruments may be used in order to increase efficiency of management or as part of the fund's investment objectives.
3. Such derivative instruments as referred to in Chapter 5, section 12, second paragraph of the Investment Funds Act (SFS 2004:46) (so-called OTC derivatives).

The fund rules shall also state whether the investment fund's investment objectives includes the use of the following holdings or strategies.

1. Such bonds and other instruments of indebtedness as stated in Chapter 5, section 8 of the Investment Funds Act (SFS 2004:46), stating the issuers or underwriters who have issued or underwritten instruments of indebtedness in which the fund intends to invest more than 35 per cent of the fund's holdings.
2. Units in other UCITS, foreign collective investment undertakings and special funds, where the fund invests to a significant extent in such financial instruments (so-called funds of funds).
3. Such derivative instruments as referred to in Chapter 6, section 2, second paragraph of the Investment Funds Act (SFS 2004:46) (so-called commodities derivatives).
4. Where the fund has a specific investment objectives based on a stock index or bond index (so-called index fund) and intends to follow such an index, such index and the market on which it is used shall be described.

*Valuation*

§ 9 The fund rules shall state the principles on which calculation of the value of the fund and the units in the fund is based. Where the investment fund's holdings may be invested in unlisted transferable securities and money market instruments, it shall be stated specifically how such holdings are to be evaluated, with information regarding the applicable valuation principles.

Where a special fund's holdings are not valued daily, the fund rules shall state when an indicative unit value will be published.

*Sales and redemption of units in collective investment undertakings*

**§ 10** The fund rules shall state the extent to which the fund is open for the sale and redemption of units and also when and where the sale and redemption price for the units are published.

The fund rules shall state the principles used in conjunction with determination of the fund's sale and redemption prices. It shall be stated specifically that sale or redemption shall take place at a price which is known to the unit holder at the time of the request regarding sale or redemption.

The fund rules shall also state whether it is possible to close the fund against subscription for new units. Where the investment fund can be closed, the fund rules must state the objective conditions under which such a measure is possible.

**§ 11** The fund rules shall state that the investment fund may be closed for entry and exit in the event extraordinary circumstances have occurred as a consequence of which a valuation of the investment fund's holdings cannot be made in a manner which ensures equal treatment of the holders of units in the fund.

*Fees and remuneration*

**§ 12** Where a fee is charged in conjunction with the sale or redemption of units in collective investment undertakings, the fund rules shall state the manner in which such fees are calculated. The maximum amount of the fees shall be stated as a percentage of the value of the units.

The fund rules shall contain information regarding the maximum fee which may be debited from the fund in order to cover the company's management fees. The information shall include costs for safekeeping, supervision and auditors. The fee shall be stated as an annual percentage share of the fund's value.

Where a performance-based management fee is used, information shall be provided regarding the manner in which such is calculated, with specific information regarding the yield level at which the performance-based management fee is charged.

*Dividends*

**§ 13** The fund rules shall state whether the investment fund distributes dividends to unit holders or another party. Where the investment fund distributes dividends, information shall be provided as to when distribution takes place. The principles governing what may be distributed shall be stated as yield on the fund's holdings, outstanding residual amount from any distributable amount from previous years, realised and unrealised increases in value or any other distributable amount.

Where distributed funds are to be used to acquire new units in the investment fund, this shall be specifically stated.

*The investment fund's financial year*

**§ 14** The fund rules shall state the financial year which is applicable to the investment fund.

*Half-yearly reports and annual reports, amendments to fund rules*

§ 15 The fund rules shall include information regarding when and where half-yearly reports and annual reports are published and information regarding where amendments to the fund rules are published.

*Pledging and assignment*

§ 16 The fund rules shall state whether it is possible for unit holders to pledge their units and, if so, the manner in which such may be effected. In addition, it shall be stated whether it is not possible to assign the units to a third party.

*Other necessary and reasonable information*

§ 17 The fund rules may include other information which the managing company deems necessary for the holders of units in collective investment undertakings and which Finansinspektionen deems to be reasonable for the unit holders. Such information shall be included in the fund rules only after the information stated in sections 2–16.

**Chapter 12. Trading in derivative instruments, securities loans***Generally*

§ 1 A Swedish management company may not, on behalf of a UCITS, make such investments through the use of derivative instruments as, in reality, entail that the investment provisions stated in the Investment Funds Act (SFS 2004:46), in these regulations, or in the fund rules are exceeded.

§ 2 A UCITS may use derivative instruments either in order solely to increase efficiency of management or as part of the investment objectives.

*Derivative instruments in order to increase efficiency of management*

§ 3 A UCITS may use derivative instruments in order to increase efficiency in the management of the fund's holdings, provided that such is stated in the fund rules. "Increase of management efficiency" means such trading in derivative instruments as is intended to protect the value of the fund's underlying holdings or cost-saving measures in order to maintain the fund's investment objectives.

Increase of management efficiency does not include such trading as is intended to create leverage in the fund. "Leverage" means that the fund's investment scope is greater than the investment scope which follows from the capital contributed by holders of units in the fund.

When calculating exposure, derivative positions shall be converted into a comparable position in the underlying holdings. Futures contracts, swaps, and other similar derivative instruments shall be calculated in accordance with the underlying exposed value. Options shall be calculated in accordance with the underlying contracted amount. Currency exposure does not constitute any further exposure in excess of the value of the underlying transferable securities.

§ 4 Where a UCITS does not possess liquid assets for the acquisition of a particular transferable security, a Swedish management company may not, on behalf of the fund, purchase the aforementioned transferable security under a

futures contract, issue put options with respect to the aforementioned transferable security or acquire call options with respect to the aforementioned transferable securities.

A Swedish management company may, however, on behalf of a fund, purchase interest-bearing transferable securities under a futures contract irrespective of whether or not the fund, at the time of the purchase under the futures contract, holds liquid funds to acquire the aforementioned transferable security, provided:

- the fund's holdings include other interest-bearing transferable securities which mature within one month from the date of the aforementioned futures purchase; and
- the transferable securities purchased under futures contracts are to be delivered only after the other interest-bearing transferable securities have matured.

#### *Derivative instruments as part of the investment objectives*

**§ 5** A UCITS may invest in derivative instruments as part of the fund's investment objectives provided that such is stated in the fund rules. Gross exposure in derivative instruments may not exceed 100 per cent of the fund holdings. The leverage which may be achieved through use of derivative instruments may thereby, at a maximum, increase exposure by 100 per cent of the fund holdings.

When calculating exposure, derivative positions shall be converted into a comparable position in the underlying assets. Futures contracts, swaps and other similar derivative instruments shall be calculated in accordance with the underlying exposed value. A delta calculation shall be made with respect to option contracts. A delta calculation shall be made in accordance with any accepted model for option valuation.

Exposure may, alternatively, be calculated through use of a Value at Risk model (VaR model). This model may only be used subsequent to specific approval by Finansinspektionen. According to this model, the fund's total risk measured in accordance with VaR may not be more than 100 per cent higher, measured including derivative instruments, compared with the fund's total risk in accordance with VaR, excluding derivative instruments.

#### *Exposure vis-à-vis single issuers*

**§ 6** With respect to UCITS that use derivative instruments in order to increase efficiency of management, futures contracts and other similar derivative instruments which relate to a single issuer shall be recalculated to the underlying exposed value. Held call options and issued put options which relate to a single issuer shall be calculated in accordance with the underlying contracted amount. Issued call options and held put options may not, however, be used in order to reduce the exposure vis-à-vis a single issuer.

With respect to UCITS that use derivative instruments as a part of the investment objectives, futures contracts or other similar derivative instruments that relate to a single issuer shall be recalculated to the underlying exposed value. With respect to options that relate to a single issuer, a delta calculation shall be made in accordance with section 5.

#### *Negative exposures*

**§ 7** Where a derivative instrument, automatically or upon request by the counterparty, may lead to delivery of the derivative instrument's underlying asset,

the UCITS shall possess delivery capacity in the underlying asset during the entire term of the derivatives contract.

In the event the derivative instrument is subject to automatic cash settlement and therefore cannot result in the delivery of underlying asset, the following shall apply instead. In such case the fund may, in addition to corresponding underlying assets, hold equivalent assets. However, the aforesaid is conditional on such assets being held during the entire term of the derivatives contract. "Equivalent assets" means such assets as have a high correlation with the derivative instrument's underlying asset.

The fund's trading in derivative instruments may not result in the fund having a negative exposure in a single currency, single share or single stock market. The fund's trading in interest rate derivatives may not result in the fund having an interest rate exposure with a negative duration.

*Counterparty risks in conjunction with trading in OTC derivatives*

§ 8 In the event a UCITS, in accordance with the fund rules, may invest in such derivative instruments as stated in Chapter 5, section 12, second paragraph of the Investment Funds Act (SFS 2004:46), the Swedish management company shall state the method used in calculating the counterparty risk. Such method shall be designed taking into consideration the provisions set forth in Chapter 5, sections 42–46 of Finansinspektionen's Regulations and General Guidelines (FFFS 2003:10). A Swedish management company shall report to Finansinspektionen the method that the fund intends to use when calculating counterparty risks.

*Securities loans*

§ 9 A UCITS may not lend out transferable securities (securities loans) to a greater extent than corresponds to 20 per cent of the fund holdings.

§ 10 Securities loans from a UCITS may be made only against satisfactory security subject to terms and conditions customary on the market. Securities loans may be made to or via clearing organisations or securities institutions. Securities loans may also be made to, or via, a foreign financial institutions which:

- is entitled to enter into such agreements;
- with respect to its securities operations, is under the supervision of an authority or other competent body; or
- is generally recognised on the market.

A UCITS' holdings of transferable securities with respect to an issuer, including borrowed and lent transferable securities with respect to the same issuer, may at no time exceed the limitation rules set forth in Chapter 5 of the Investment Funds Act (SFS 2004:46).

*Specifically regarding special funds*

§ 11 The provisions set forth in sections 1–10 shall apply to special funds insofar as Finansinspektionen has not granted exceptions from specific provisions and such is stated in the fund rules.

**Part IV Information regarding investment funds**

## Chapter 13. Simplified prospectuses

### *Generally*

§ 1 The simplified prospectus shall contain the information set forth in Chapter 4, sections 15–16 and Chapter 5, section 18 of the Investment Funds Act (SFS 2004:46), as well as the additional information set forth in sections 2–12 of this Chapter. The information shall be clear and easily comprehensible.

### *Information regarding the fund and the company that conducts fund operations*

§ 2 The simplified prospectus shall provide a brief presentation of the fund and the company that conducts fund operations. The presentation shall contain the following information:

1. when the fund was formed;
2. the location of the registered office of the company and when the company has been granted authorisation to conduct fund operations;
3. the fund's depository; and
4. the company's auditors.

### *Fund saver profile*

§ 3 The simplified prospectus shall contain a description of the fund's target group.

### *Target and investment objectives*

§ 4 The simplified prospectus shall provide information regarding the fund's investment strategy. Such information shall comprise the following:

1. a description of the goal sought by the fund through its investments;
2. information regarding any guarantees issued by third parties in order to protect unit holders against losses as well as any limitations set forth in such guarantees;
3. whether the fund has a goal to follow or exceed one or more comparison indices;
4. the assets in which the fund may invest;
5. whether the fund intends to invest in a specific geographical area, a particular industry or suchlike;
6. whether the fund's management strategy entails a high turnover of the fund holdings;
7. where the fund invests in bonds, information shall be provided whether such are corporate bonds or government bonds, their duration and credit rating; and
8. where the fund trades in derivative instruments, information shall be provided whether such takes place in order to increase efficiency of management or whether the fund may invest in the instruments.

In those cases where the fund follows, or has as its goal to exceed, one or more comparison indices in accordance with subsection 3, sufficient information shall be provided in order for the unit holders to be able to identify the index. Information shall be provided regarding the amount by which the fund may deviate from the index.

### *The fund's risk profile*

§ 5 The simplified prospectus shall contain information regarding the fund's risk profile. The following information shall be provided:

1. information that the investment may both increase and decrease in value and that an investor may get back a smaller amount than the capital invested;
2. brief and easily comprehensible information regarding the specific risks associated with the fund's investment strategies, including an appropriate prioritisation between different types of risk; and
3. a reference to the full prospectus for a more detailed description of the risks associated with the fund as a consequence of the investment objectives.

#### *Historic yield*

§ 6 Historic yield shall be reported in the form of a bar chart demonstrating the fund's yield over the past ten calendar years or, where the fund has been in existence for a shorter period of time, as many years as are available.

The yield shall be reported less deductions for taxes and fees with the exception of fees associated with sale and redemption. A clear explanation thereof shall be provided. In addition, information shall be provided whether fees are incurred in connection with sale and redemption.

Where a fund is managed in accordance with a comparison index or where the management fee includes a performance-based payment based on a comparison index, information regarding the fund's historic yield shall be compared with such index. The comparison shall take place through the comparison index's yield being displayed in the same bar chart as the fund's yield. Presentation may also take place separately.

The simplified prospectus shall state that historic yield is no guarantee of future yield.

The simplified prospectus shall contain a calculation of the fund's average annual yield for at least a period of three and five years.

#### *Tax rules*

§ 7 The simplified prospectus shall contain information regarding rules with respect to the fund's taxation, including summarised information regarding the relevant tax legislation.

The simplified prospectus shall also provide information that a unit holder's tax may be affected by individual circumstances and that investors who are unsure as to possible tax consequences should seek expert assistance.

#### *Fees*

§ 8 The simplified prospectus shall contain information regarding the costs that affect unit holders. The following shall be stated:

1. information regarding TER, total costs in relation to average fund holdings, with the exception of newly-formed funds in which TER cannot yet be calculated;
2. information regarding costs that are not included in TER but which are incurred by the fund;
3. a description of sale and redemption fees as well as all other costs paid directly by the investor; and
4. a reference to any fee allocation agreements.

In order further to elucidate the importance of transaction costs, information shall be provided regarding the rate of turnover in the fund.

*Dividends*

§ 9 The simplified prospectus shall state when and how the fund provides dividends.

*Publication of unit value*

§ 10 The simplified prospectus shall provide information regarding where and how information is published with respect to the fund's unit value, and how often such occurs.

*Purchase and sale of units*

§ 11 The simplified prospectus shall provide information regarding the manner in which purchases and sales of fund units take place.

*Additional information*

§ 12 The simplified prospectus shall, in addition, provide the following information:

1. information that a full prospectus as well as annual report and half-yearly report may be obtained upon request before the investor purchases units in the fund and also thereafter;
2. information that Finansinspektionen exercises supervision over the fund and the company that manages the fund;
3. information regarding where and when additional information may be obtained;
4. the complaints officer; and
5. the date of publication of the simplified prospectus.

**Chapter 14. Full prospectus**

*Generally*

§ 1 The full prospectus shall contain the information set forth in Chapter 4, sections 15–16 and Chapter 5, section 18 of the Investment Funds Act (SFS 2004:46) with the clarifications set forth in sections 2–6 of this Chapter.

*Engagements agreements*

§ 2 The full prospectus shall provide information whether the company has engaged other party to perform certain work or certain functions and, if so, who.

*The fund*

§ 3 The full prospectus shall contain the following information concerning the fund:

1. the fund's name;
2. information regarding the party that maintains a register of all holders of units in the fund;



3. information regarding whether or not there are any restrictions on the possibility to limit sale and redemption orders for fund units placed with the Swedish management company's; and
4. information regarding the circumstances under which the fund may cease to exist or be transferred and the manner in which and when the unit holders will be informed thereof.

*The fund's risk profile*

§ 4 The full prospectus shall contain a detailed description of the fund's risk profile. The description shall address the specific risks that exist based on the fund's investment strategy.

*Fees*

§ 5 The full prospectus shall contain the following information:

1. information, stated as a percentage of the value of the fund units, regarding the maximum fee which the company that manages the fund may charge upon sale or redemption of fund units;
2. information, stated as a percentage of the value of the fund units, regarding the applicable fee which the company that manages the fund charges upon sale or redemption of fund units;
3. information, stated as an annual percentage of the fund's value, regarding the maximum fee with which the company that manages the fund may debit the fund in order to cover management costs, including costs for safekeeping, supervision and auditors; and
4. information, stated as an annual percentage of the fund's value, regarding the current fee with which the company that manages the fund debits the fund in order to cover the costs stated in subsection 3.

Information in accordance with subsections 2 and 4 may be provided in separate appendices attached to the full prospectus.

## **Chapter 15. Annual reports and half-yearly reports with respect to investment funds**

### **General provisions regarding annual reports**

*Generally*

§ 1 The provisions of this Chapter shall be applied by companies which conduct fund operations in accordance with the Investment Funds Act (SFS 2004:46) in conjunction with the preparation of annual reports and half-yearly reports.

The provisions shall also be applied by Swedish management companies that have been authorised to conduct fund operations in accordance with section 11 of the Securities Funds Act (FFFS 1990:1114) as well as other companies under the supervision of Finansinspektionen that have been authorised to conduct other business operations pursuant to section 3 of the same Act.

*Determination of current market value*

§ 2 The fund's holdings shall be valued based on current market value. In this context, "holdings" also includes derivative instruments and liabilities.

Current market value may be determined through different methods, which shall be applied in accordance with the following order.

1. Where the financial instrument is traded on an active market, the last transaction price on the closing day shall be used. Where the closing day is not a trading day, the aforesaid shall apply to the last trading day prior to the closing day.
2. Where the financial instrument is not traded on an active market, the current market value shall be derived from information regarding similar transactions which took place under market conditions during the most recent period.
3. Where methods 1 or 2 cannot be applied or are obviously misleading, the current market value shall be determined through use of a valuation model which is established on the market.

*The parts of the annual report*

§ 3 An annual report shall contain:

- balance sheet;
- profit and loss statement;
- information regarding the fund's holdings and positions in financial instruments; and
- management report.

*Accurate representation*

§ 4 The annual report shall be prepared as a whole and present an accurate representation of the fund's holdings and liabilities, exposure to financial risks, and results. Supplementary information shall be provided where necessary in order to provide an accurate representation.

**Balance sheet**

§ 5 In the balance sheet, a summary shall be provided of all reported assets and liabilities attributable to the fund as per the closing date. The balance sheet shall be concluded with information regarding the fund holdings. The balance sheet shall be prepared in accordance with the format in *Appendix 7*. Items other than those set forth in the Appendix may be included provided the content thereof is not already covered by items in the format. The items may be divided into sub-items.

§ 6 Comparison figures shall be stated for corresponding periods in previous years.

§ 7 In the balance sheet, financial instruments with a positive market value shall be reported as assets, while instruments with a negative market value shall be reported as liabilities. The item "Financial instruments with negative market value" means, for example, derivative instruments with a negative market value.

§ 8 Securities which are lent out shall be reported as securities in the balance sheet. Borrowed securities shall not, however, be reported as an asset.

The market value of received security shall be stated as a memorandum item.

The market value of lent securities shall be stated as a memorandum item.

§ 9 Information shall be provided as a memorandum item regarding the security pledged by the fund, expressed in kronor and as a percentage of fund holdings.

**Profit and loss statement**

§ 10 The profit and loss statement shall be prepared in accordance with the format in *Appendix 8*. Comparison figures shall be stated for corresponding periods in previous years.

**Description of the profit and loss statement items****Income and changes in value**Changes in value of share-related financial instruments

This item refers to realised and unrealised profits as well as realised and unrealised losses during the period.

The profit/loss item covers all share-related financial instruments, *inter alia*, share options, share futures, convertible debentures, participating debentures, shares in equities funds and share index bonds.

Changes in value of interest-related financial instruments

This item refers to realised and unrealised profits as well as realised and unrealised losses on bonds (not discount instruments) during the period.

Interest-related instruments include, *inter alia*, bonds, units in fixed income funds, interest options as well as interest futures where the latter refer to bonds.

Interest income

This item refers to interest on interest-related instruments, including dividends on fixed income funds, changes in value of discount instruments as well as bank interest and any other interest, both accrued and received.

Dividends

This item refers to dividends on shares and units in investment funds (however, not units in fixed income funds). The dividends from mixed investment funds shall also be included where at least one half of the mixed investment fund market value consists of shares or share-related instruments. Dividends and withholding tax on foreign shares shall be reported net, taking into consideration any restitution.

Compensation for dividends in connection with the lending of shares shall also be included here.

Net exchange rate profits and losses

This item refers to the results from currency derivatives and exchange rate changes on bank accounts held in foreign currency. The provisions of Chapter 4, section 10 of the Investment Funds Act (SFS 2004:46) whereby holdings in an investment fund shall be valued at the market value entail that realised and unrealised profits and losses are taken up in their entirety.

Other income

This item refers, e.g., to premiums in conjunction with the lending of securities. Insofar as a unit holder has provided the fund with income as compensation for transaction costs, such income shall be reported here separately.

**Costs**Management costs

Where the fund pays remuneration only to a Swedish management company which, in turn, makes payment to a depositary and the supervisory authority, such payment shall be stated as a total amount under "Management costs". In other cases, the payment shall be stated separately in the profit and loss statement in accordance with the format in *Appendix 8*.

Interest expenses

This item refers to interest expenses paid by the fund in conjunction with borrowing.

Other costs

This item refers to premiums in conjunction with the borrowing of shares as well as compensation paid for dividends in conjunction with the borrowing of shares, transaction costs (where such amounts are not included under the item "Change in value") as well as any other costs. Specification shall take place either directly in the profit and loss statement or in notes.

Tax

This item refers to the fund's estimated tax cost based on the fund's taxable results.

**Supplementary information**

*Generally*

**§ 11** The annual report shall contain information regarding the manner in which the market value of assets and liabilities attributable to the fund has been determined. Specific information shall be provided where significant uncertainty prevails regarding the reported value, for example, as a consequence of applied methods for estimation of market value or where there is no regular trading in the financial instrument in question.

**§ 12** Where the balance sheet items, current receivables and current liabilities, amount to significant sums, the items shall be specified in notes.

*Holdings and positions in financial instruments*

**§ 13** The fund's holdings of, and positions in, financial instruments shall be specified based on geographic area, industry or in any other manner which is relevant, based on the fund's investment objectives. The holding pursuant to this breakdown shall be expressed as a percentage of fund holdings on the closing day.

Specification shall also be made, with an indication of market value, broken down into the following categories:

- financial instruments that are listed on a Swedish or foreign exchange;
- financial instruments that are listed on an authorised marketplace;
- financial instruments that are traded regularly on any other regulated market which is open to the public;
- financial instruments that, within one year from the date of issue, are intended to be traded regularly on a Swedish or foreign exchange, authorised marketplace or any other regulated market which is open to the public; and
- other financial instruments.

When the aforesaid specification is prepared, derivative instruments shall be stated in connection with the underlying spot holding. The aforesaid shall also take place

where the market value of the derivative instrument is negative. In addition, the number, however not the value, of borrowed securities shall be included.

With respect to the above-stated breakdowns, each group's share of the market value of fund holdings shall be stated expressed as a percentage. Information shall also be provided regarding the holding per single issuer and the market value of the holding.

The specification of holdings of financial instruments shall conclude with a summary of the market value of all financial instruments. In addition, the net value of the fund's other assets and liabilities, as well as total fund holdings, shall be stated.

The specification shall be prepared in such a manner that it is possible to trace directly the holdings and positions which together constitute specifications of the balance sheet items, "Financial instruments with positive market value" and "Financial instruments with negative market value".

In those cases where the fund holds several types of securities which are issued by a single issuer, the percentage of fund holdings that consists of transferable securities and other financial instruments shall be stated in respect of each issuer.

§ 14 Furthermore, information shall be provided regarding options and futures contracts held or issued by the fund. The aforesaid shall be divided into standardised and non-standardised instruments. Information shall also be provided regarding the fund's securities loans, broken down into borrowing and lending.

*Specification of changes in value*

§ 15 Funds which, pursuant to the fund rules, may utilise capital gains for dividends shall specify changes in value of held financial instruments as stated below.

Share-related financial instruments

Capital gains  
Capital losses  
Unrealised gains/losses

Total

Interest-related financial instruments

Capital gains  
Capital losses  
Unrealised gains/losses

Total

*Change in fund holdings*

§ 16 The following information shall be provided regarding change in fund holdings.

Fund holdings at the beginning of the year

Unit issuance  
Unit redemption  
Results for the year in accordance with profit and loss statement  
Received accrued dividends in conjunction with issuance of units

Paid out accrued dividends in conjunction with redemption of units  
Distributed dividends

Fund holdings at end of year

§ 17 The annual report shall contain a comparative reporting of the fund's performance for each of the past five years with respect to:

- fund holdings;
- unit value;
- dividend per unit;
- total yield in per cent; and
- information regarding the performance during the corresponding year for a relevant comparison index, in per cent.

Where the fund has commenced its operations during the last five-year period, the performance from the start date shall be stated.

**Management report**

*Performance during the year*

§ 18 The management report shall contain a description of the manner in which fund holdings have performed with respect to saving and yield. Important factors that have affected the results, such as large exchange rate changes, shall be commented on as well as other significant events, e.g. changes in investment objectives or comparison index. Information shall be provided where any significant personnel or organisational changes have taken place.

The management report shall also contain information regarding key ratios that describe the fund's performance, risk benchmark, costs as well as turnover rate regarding the fund's holdings of financial instruments.

§ 19 The management report shall describe the total management cost expended during the year. The management cost shall be expressed in kronor for one unit holding which, at the beginning of the year, shall be assumed to be worth SEK 10,000. These units are assumed to be held in the fund during the entire year. Any dividend from the fund is assumed to be reinvested in new units and the value of such units shall also be included in the calculation of the total management cost.

*Purchase and sale of financial instruments with closely-related Swedish securities companies*

§ 20 Information shall be provided regarding the total value of purchases and sales (turnover) of financial instruments which have taken place on behalf of the fund during the year with Swedish securities companies within the same group as the Swedish management company. Such information shall be stated as a percentage of the fund's total turnover.

*Financial derivative instruments*

§ 21 The annual report shall state the extent to which, and the manner in which, the Swedish management company has traded in options, futures contracts or other similar financial instruments on behalf of the fund. Where the fund is authorised to

trade in the aforementioned instruments but has not utilised such possibility, this fact shall be stated in the annual report.

### **Content of half-yearly reports**

§ 22 The half-yearly reports shall provide a brief description of the fund's operations and performance during the reporting period.

§ 23 When the half-yearly report is prepared, the provisions of sections 2, 4, 5–9, 13 and 18, first paragraph, shall be applied.

## **Part V Reporting**

### **Chapter 16. Annual report and business plan**

§ 1 A company which is authorised to conduct operations in accordance with the Investment Funds Act (SFS 2004:46) shall notify Finansinspektionen upon the commencement of such operations.

§ 2 A Swedish management company shall submit the annual report to Finansinspektionen when such has been adopted.

§ 3 A company which conducts fund operations shall regularly update the business plan with the changes that have taken place in the operations.

§ 4 In connection with the submission of the annual report, a Swedish management company shall append a list of any changes that have taken place in the business plan during the preceding calendar year. A Swedish management company shall submit an updated business plan where more appropriate in light of the extent of the changes.

Other companies that conduct fund operations shall submit a list or business plan pursuant to the first paragraph upon adoption of the company's annual report.

§ 5 Companies that conduct fund operations shall report to Finansinspektionen changes in the business plan that are of material significance. Such reporting shall take place as soon as possible after the change has been made.

### **Chapter 17. Reporting of the investment fund's holdings of transferable securities, etc.**

#### *Scope*

§ 1 The provisions of this Chapter shall apply to the following undertakings:

- companies that are authorised to conduct fund operations in accordance with Chapter 1, section 4 of the Investment Funds Act (SFS 2004:46);
- other institutions under the supervision of Finansinspektionen that are authorised to conduct fund operations which relate to special funds in accordance with Chapter 1, section 5 of the Investment Funds Act (SFS 2004:46);
- Swedish management companies that are authorised to conduct fund operations in accordance with section 11 of the Securities Funds Act (FFFS 1990:1114) or are authorised to conduct other business operations in accordance with section 3 of the Securities Fund Act; and

- other institutions under the supervision of Finansinspektionen that are authorised to conduct other business operations in accordance with section 3 of the Securities Funds Act (FFFS 1990:1114).

§ 2 Undertakings in accordance with section 1 must be able, at any given time, to present a summary of the fund's holdings of the assets stated in the Investment Funds Act (SFS 2004:46) (in this Chapter, "Financial instruments"). In conjunction with such a summary, *Appendix 9* shall be used.

§ 3 Undertakings in accordance with section 1 shall, as per the final banking day in each quarter, prepare a summary of each fund's holdings of financial instruments in accordance with *Appendix 10*, Finansinspektionen's input data specification.

§ 4 Reporting shall be received by Finansinspektionen not later than the tenth day in the following month.

§ 5 The information in the reporting shall relate to each individual fund.

§ 6 Finansinspektionen shall decide on exemptions from the above provisions where special cause exists.

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These Regulations shall enter into force on 1 April 2004, whereupon the following Regulations issued by Finansinspektionen shall be repealed.

1. Finansinspektionen's Regulations (FFFS 2001:18) governing the reporting of UCITS' holdings of transferable securities and other financial instruments.
2. Finansinspektionen's Regulations and General Guidelines (FFFS 2002:20) governing annual reports and half-yearly reports for UCITS.

In connection with the entry into force of these Regulations, Finansinspektionen's Regulations (FFFS 1997:11) governing UCITS shall be repealed except with respect to the Swedish management companies and other fund managers that manage UCITS or conduct other business operations in accordance with section 3 of the Securities Funds Act (SFS 1990:1114). With respect to such parties, FFFS 1997:11 shall apply, where applicable, for such time as they conduct operations and have not obtained new authorisation in accordance with the Investment Funds Act (SFS 2004:46).

Upon entry into force of these Regulations, the following general guidelines issued by Finansinspektionen with respect to Swedish management companies shall be repealed:

1. Finansinspektionen's General Guidelines (FFFS 1998:22) regarding the management of ethical issues at institutions under the supervision of the Authority;
2. Finansinspektionen's General Guidelines (FFFS 1999:7) regarding reporting of events of material significance;
3. Finansinspektionen's General Guidelines (FFFS 1999:12) regarding governance, internal information and internal control within credit and securities institutions as well as Swedish management companies;
4. Finansinspektionen's General Guidelines (FFFS 2002:23) regarding complaints management with respect to financial services to consumers.



INGRID BONDE

Joakim Schaaf



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