

2024-06-18

Decision

Nasdaq Stockholm Aktiebolag
via the chair of the Board of Directors
105 78 Stockholm

FI Ref. 23-25934
FI Ref. 23-32698



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Remark and administrative fine

Finansinspektionen's decision (to be announced
19 June 2024 at 8:00 a.m.)

1. Finansinspektionen is issuing Nasdaq Stockholm Aktiebolag (556420-8394) a remark.

(Chapter 25, section 1 of the Securities Market Act [2007:528])

2. Nasdaq Stockholm Aktiebolag shall pay an administrative fine of SEK 100,000,000.

(Chapter 25, section 8 of the Securities Market Act)

For information on how to appeal, *see the appendix.*

Summary

Nasdaq Stockholm Aktiebolag (Nasdaq Stockholm or the stock exchange) is a stock exchange, i.e. a firm that holds authorisation to operate a regulated market in accordance with the Securities Market Act (2007:528).

Finansinspektionen has investigated whether Nasdaq Stockholm, in conjunction with four major company events in 2021 and 2022, met its obligations to maintain effective arrangements, systems and procedures in its trade monitoring and to report suspected insider dealing to the authority pursuant to Article 16(1) of the EU Market Abuse Regulation (MAR)¹ and Chapter 13, section 7 of the Securities Market Act.

¹ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European

Finansinspektionen also investigated whether Nasdaq Stockholm, on two occasions in 2022 and 2023, initiated trading in financial instruments on Nasdaq Stockholm's regulated market in violation of Chapter 13, section 3 of the Securities Market Act, since Finansinspektionen had not approved and registered prospectuses for the instruments.

The investigations show that, in conjunction with the four company events, there have been deficiencies in how Nasdaq Stockholm has conducted its trading monitoring, which should prevent, identify and report insider dealing. The investigations also show that Nasdaq Stockholm on two occasions, initiated trading in financial instruments in violation of the regulatory framework. Nasdaq Stockholm has hereby disregarded its obligations pursuant to Article 16(1) of MAR and Chapter 13, sections 3 and 7 of the Securities Market Act.

Finansinspektionen makes the assessment that the violations have been of such a nature that there are grounds on which to intervene against Nasdaq Stockholm. However, the violations are not so serious that there are grounds on which to withdraw the stock exchange's authorisation or issue the stock exchange a warning. Finansinspektionen is therefore issuing Nasdaq Stockholm a remark and an administrative fine of SEK 100 million.

Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

1 Background

1.1 About Nasdaq Stockholm Aktiebolag and its operations

Nasdaq Stockholm Aktiebolag (Nasdaq Stockholm or the stock exchange) is a stock exchange, i.e., a firm that holds authorisation to operate a regulated market in accordance with the Securities Market Act (2007:528). Nasdaq Stockholm also has authorisation pursuant to the same act to operate a multilateral trading facility (MTF).

Nasdaq Stockholm operates a regulated market called Nasdaq Stockholm (Nasdaq's regulated market) and an MTF called Nasdaq First North Sweden. Approximately 350 companies have financial instruments admitted to trading on Nasdaq's regulated market, and the financial instruments of approximately 400 companies are traded on Nasdaq First North Sweden. In addition to shares, derivatives, convertibles, bonds and other instruments are also traded on the regulated market.

Nasdaq Stockholm's most recently adopted annual report refers to the 2023 financial year. The annual report states that the stock exchange had a turnover of SEK 2,103 million and 180 employees.

Nasdaq Stockholm is part of the Nasdaq Group, an international group with operations in, for example, the USA, the Nordics and the Baltics. Consolidated turnover in 2023 was SEK 41,337 million.²

1.2 The investigations

Finansinspektionen discusses in this decision two investigations the authority conducted into Nasdaq Stockholm (the investigations).

1.2.1 Monitoring and reporting of suspected insider dealing

Finansinspektionen identified in the autumn of 2021 and the spring of 2022 in its ongoing supervision that there had been suspected insider dealing in conjunction with four major company events in companies whose shares were admitted to trading on Nasdaq's regulated market (the transactions). Because Nasdaq Stockholm had not reported the transactions to Finansinspektionen as suspected insider dealing, Finansinspektionen opened an investigation in September 2023 into whether the stock exchange had disregarded its obligation to report suspected market abuse in accordance with the second subparagraph of Article

² Relevant annual average exchange rates and year-end exchange rates for USD/SEK from the Riksbank were used to convert the consolidated income statement and consolidated balance sheet items to SEK.

16(1) of the EU Market Abuse Regulation³ (MAR) (FI Ref. 23-25934). In October 2023, the investigation was expanded to also include the matter of whether the stock exchange – given the background of the failure to report – also had disregarded its obligation pursuant to the first subparagraph of Article 16(1) of MAR to establish and maintain effective arrangements, systems and procedures that aim to prevent and detect insider dealing, market manipulation, and attempts at insider dealing and market manipulation.

Nasdaq Stockholm has been given the opportunity to comment on Finansinspektionen's preliminary assessments that the stock exchange disregarded its obligations pursuant to both Article 16(1) of MAR and corresponding provisions in Chapter 13, section 7 of the Securities Market Act. Nasdaq Stockholm submitted its comments on 8 March 2024.

As part of the investigation, Nasdaq Stockholm has provided trade reports for the trading in the companies in question. Finansinspektionen has analysed these reports together with, among other things, received transaction data.⁴

1.2.2 Conditions for admission to trading

Finansinspektionen was informed on 20 September 2023 that Nasdaq Stockholm had admitted bonds to trading on Nasdaq's regulated market without Finansinspektionen having approved and registered a prospectus and without the prospectus being disclosed in accordance with the Prospectus Regulation⁵. Given this information, Finansinspektionen opened in November 2023 an investigation into whether Nasdaq Stockholm had disregarded its obligations pursuant to Chapter 13, section 3 of the Securities Market Act (FI Ref. 23-32698).

On 19 December 2023, Nasdaq Stockholm informed the authority of another event that could entail a violation of Chapter 13, section 3 of the Securities Market Act. As a result, Finansinspektionen decided to expand the investigation to also include this event.

Nasdaq Stockholm has been given the opportunity to comment on Finansinspektionen's preliminary assessment that the stock exchange has disregarded the provision set out in Chapter 13, section 3 of the Securities

³ Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

⁴ Investment firms and banks are subject to a reporting obligation when they execute transactions in financial instruments admitted to trading on a trading venue or derivatives where underlying instruments are admitted to trading on a trading venue.

⁵ Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC.

Market Act on these two occasions. Nasdaq Stockholm submitted its comments on 12 April 2024.

2 Finansinspektionen's observations and assessments

2.1 Monitoring and reporting of suspected insider dealing

2.1.1 Introduction

Finansinspektionen discusses in this section Nasdaq Stockholm's trade monitoring and reporting of suspected insider dealing in conjunction with four major company events related to public takeover bids and mergers that occurred in 2021 and 2022. The companies in question are ICA Gruppen Aktiebolag (ICA), Lundin Energy AB (Lundin Energy), Swedish Match AB (Swedish Match), and Haldex Aktiebolag (Haldex), all of which had their shares admitted to trading on Nasdaq's regulated market at the time of each company event.

Prior to each company event, Nasdaq Stockholm received material non-public information (MNPI) that conditions that could be assumed to be of extraordinary significance would be disclosed. From this point until the disclosure of the information about the event, actors related to the issuer (with regard to ICA) or Nasdaq Stockholm's trade monitoring (in all four company events) purchased a large volume of shares in the company in question. In most of the cases, these actors were the natural persons who purchased the most shares net in each company during the period between the MNPI and the disclosure, and during the same period they did not sell any such shares. In all cases it is clear that the actors deviated from their normal trading patterns when they purchased the shares. Nasdaq Stockholm has not informed Finansinspektionen about any suspicions of insider dealing in conjunction with the purchase of these shares.

Finansinspektionen will now determine whether Nasdaq Stockholm, in conjunction with the four company events, has met the requirements in the regulatory framework on having effective trade monitoring and reporting suspected insider dealing to the authority.

2.1.2 Legal basis

Provisions regarding the requirements that are imposed on a stock exchange's trade monitoring and reporting of suspected market abuse are set out in MAR, Commissions Delegated Regulation (EU) 2016/957⁶ (the delegated regulation), and the Securities Market Act.

⁶ Commission Delegated Regulation (EU) 2016/957 of 9 March 2016 supplementing Regulation (EU) No 596/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the appropriate arrangements, systems and procedures as well as

EU's Market Abuse Regulation

Pursuant to the first subparagraph of Article 16(1) of MAR, market operators and investment firms that operate a trading venue shall establish and maintain effective arrangements, systems and procedures aimed at preventing and detecting insider dealing, market manipulation and attempted insider dealing and market manipulation in accordance with Articles 31 and 54 of MiFID⁷.

Pursuant to the second subparagraph of Article 16(1) of MAR, persons referred to in the first subparagraph shall report orders and transactions, including any cancellation or modification thereof, that could constitute insider dealing, market manipulation or attempted insider dealing or market manipulation to the competent authority of the trading venue without delay.

The delegated regulation

The delegated regulation contains supplementary provisions to MAR.

Pursuant to Articles 2(3) and 2(4), arrangements, systems and procedures shall ensure effective and ongoing monitoring, for the purposes of preventing, detecting and identifying insider dealing, market manipulation and attempted insider dealing and market manipulation, of all orders received or all transactions executed and the customers concerned.

The first subparagraph of Article 2(5) states that market operators and investment firms operating a trading venue shall ensure that the arrangements, systems and procedures referred to in Article 2(3) are appropriate and proportionate in relation to the scale, size and nature of their business activity.

Article 3(1) states that such arrangements, systems and procedures shall

- a) allow for the analysis, individually and comparatively, of each and every transaction executed and order placed, modified, cancelled or rejected in the systems of the trading venue and, in the case of persons professionally arranging or executing transactions, also outside a trading venue,
- b) produce alerts indicating activities requiring further analysis for the purposes of detecting potential insider dealing or market manipulation or attempted insider dealing or market manipulation,
- c) cover the full range of trading activities undertaken by the persons concerned.

notification templates to be used for preventing, detecting and reporting abusive practices or suspicious orders or transactions.

⁷ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

Pursuant to Article 3(4), market operators and investment firms operating a trading venue shall put in place and maintain arrangements and procedures that ensure an appropriate level of human analysis in the monitoring, detection and identification of transactions and orders that could constitute insider dealing.

Furthermore, pursuant to Article 5, market operators and investment firms operating a trading venue shall establish and maintain effective arrangements, systems and procedures that enable them to assess, for the purpose of submitting a suspicious transaction and order report, whether an order or transaction could constitute insider dealing.

Article 6(1) contains provisions that effective arrangements, systems and procedures shall enable the submission of a suspicious transaction and order report without delay once reasonable suspicion of actual or attempted insider dealing or market manipulation is formed.

Securities Market Act

Chapter 13, section 7 of the Securities Market Act states that a stock exchange shall monitor the trade and price-formation on a regulated market that it operates and ensure that trading occurs in accordance with the Securities Market Act and other regulations as well as good practice on the securities market. The stock exchange shall immediately inform Finansinspektionen about, among other things, behaviour that could indicate violations of MAR.

2.1.3 Details about the four company events

As described above, prior to company events in ICA, Lundin Energy, Swedish Match and Haldex, Nasdaq Stockholm received MNPI that conditions that could be assumed to be of extraordinary significance would be disclosed. When information is submitted about company events of this nature, there is typically an increased risk of insider dealing since actors that have insider information about the events can use the information to benefit themselves or a third party.

Finansinspektionen has chosen to analyse the trades executed in each company's shares from the point in time when Nasdaq Stockholm received MNPI until this information about the company event was disclosed. The analysis includes only trades executed on Nasdaq's regulated market. Transactions executed as a result of routed orders via systematic internalisers or that have been carried out directly on other trading venues or completely outside trading venues are not included in the analysis. The authority's analysis thus does not include any information other than what Nasdaq Stockholm has had access to in its trade monitoring.

Below is an account of each company event. The issue of whether there were suspicious transactions that Nasdaq Stockholm was obligated to report to Finansinspektionen arises in each of the cases.

ICA

On 10 November 2021, at 7:00 a.m., an announcement was made that two actors had submitted a recommended public takeover bid to acquire all shares in ICA for a cash payment of SEK 534 per share. On the same day, trading in the share opened at SEK 533, which was an increase of around 10.9 per cent compared to the closing price on the previous trading day. On 22 October 2021, Nasdaq Stockholm had received MNPI from the offerors that they intended submit a bid for ICA. The MNPI described, among other things, that a letter of offer would be sent to the chair of the Board of Directors of ICA during the evening of 22 October 2021 and that the plan was to disclose the offer at some point during the period 10–15 November 2021. The bid for ICA was the largest bid on the Swedish market in 2021. According to the insider list prepared by the offerors, insider information about the bid arose on 14 September 2021.

A post on a financial news website was published on 25 October at 9:08 a.m. The post speculated that either a public takeover bid or a merger was in the works for ICA. This information, which in the post was described only as rumours and that did not fully align with the full details in the MNPI, caused the share price to rise by around 3 per cent.

On 17 November 2021, Nasdaq Stockholm submitted a report to Finansinspektionen about suspected insider dealing in conjunction with the bid for ICA. In this report, the stock exchange accounted for transactions in share derivatives that used ICA's share as the underlying asset, and no end customers were identified. The report states that it was the opinion of the stock exchange that only trades executed before 25 October 2021 gave the stock exchange grounds to suspect insider dealing. According to the report, this limitation was made due to the post on the financial news site on 25 October 2021.

With the help of received transaction data, Finansinspektionen has analysed the trading in ICA's share on Nasdaq's regulated market during the period 22 October–9 November 2021. The authority identified through this analysis ten actors linked to either ICA or Nasdaq Stockholm's trade monitoring that each purchased a large volume of shares during the period without selling any shares. All ten actors deviated from their respective earlier trading patterns.

According to the stock exchange's trade reports, a total of 79,851 transactions in ICA's shares were executed during the period in question. All transactions executed by the ten actors are included in these trade reports.

Lundin Energy

Lundin Energy disclosed on 21 December 2021 at 3:31 p.m. that the company had entered an agreement to merge with another company. Prior to the disclosure, the stock exchange had decided at 3:20 p.m. to halt trading in the share and related financial instruments. The last executed transaction in the share

prior to the trading halt was at SEK 366.70, and at the end of the trading day the share closed at SEK 374.90. The price increased by around 2.24 per cent from the disclosure of the merge and around 2.54 per cent compared to the opening price earlier that day. On the morning prior, 20 December 2021, Nasdaq Stockholm had received MNPI from Lundin Energy due to the proposed merger. Lundin Energy prepared an insider list on 10 December 2021 due to the discussions about the merger.

The stock exchange has not identified and reported any orders or transactions that could have constituted insider dealing or attempts at insider dealing in Lundin Energy's share in conjunction with the disclosure of the merger.

With the help of reported transaction data, Finansinspektionen has analysed trading in Lundin Energy's share executed during the period 20 December 2021–21 December 2021 at 3:20 p.m. The authority identified through its analysis two actors with a link to Nasdaq Stockholm's trade monitoring that each purchased a large volume of Lundin Energy shares during the period without selling any shares. The actors deviated from their respective earlier trading patterns.

According to the stock exchange's trade reports, a total of 8,753 transactions in Lundin Energy's shares were executed during the period in question. All transactions executed by the two actors are included in the trade reports.

Swedish Match

Swedish Match announced on 9 May 2022 at 6:20 p.m. that discussions were under way with another company about a potential public takeover bid. On the next day, trading in the share opened at SEK 95, which was an increase of around 24.9 per cent compared to the closing price on 9 May 2022. On 11 May 2022, Swedish Match published a press release in which the company confirmed that it had received a cash offer of SEK 106 per share and that the Board of Directors was recommending to shareholders to accept the bid. On 22 April 2022, Nasdaq Stockholm had received MNPI about the pending bid. The bid for Swedish Match was the largest on the Swedish market in 2022. Swedish Match drew up an insider list on 7 April 2022 due to the bid.

On 25 May 2022, Nasdaq Stockholm submitted a report to Finansinspektionen about suspected insider dealing in conjunction with the takeover bid. In the report, the stock exchange accounted for transactions in warrants with an identified end customer. However, Finansinspektionen did not consider that trade to be suspicious given the customer's historic trading patterns. The report also referred to trading in shares but only identified institutional end customers and could not show anything suspicious. Finansinspektionen therefore did not take any action as a result of the report.

With the help of received transaction data, Finansinspektionen analysed trading in Swedish Match's share executed during the period 22 April–10 May 2022.

The authority identified through this analysis seven actors with a link to Nasdaq Stockholm's trade monitoring that each purchased a large volume of shares in Swedish Match during the period without selling any shares. All actors deviated from their respective earlier trading patterns.

According to the stock exchange's trade reports, a total of 113,730 transactions in Swedish Match's shares were executed during the period in question. All transactions executed by the seven actors are included in the trade reports.

Haldex

Haldex announced on 8 June 2022 at 7:15 a.m. that the company had received a cash offer of SEK 66 per share from another company and that the Board of Directors was recommending to the shareholders to accept the offer. Trading in the share opened at SEK 64.30, which was an increase of around 42.7 per cent compared to the closing price on the previous trading day. On 14 April 2022, Nasdaq Stockholm had received MNPI about the pending bid. Haldex prepared on 14 April 2022 an insider list due to the bid.

On 20 June 2022, Nasdaq Stockholm submitted a notification to Finansinspektionen about suspected insider dealing due to the bid for Haldex. This notification noted account references at two foreign companies that had purchased large volumes of the Haldex share during the period 1–3 and 2–7 June 2022. The notification was based on trading patterns, and no end customers were identified. The stock exchange has not submitted notification of additional transactions that could have constituted insider dealing or attempted insider dealing in the Haldex share up to and including 7 June 2022.

With the help of received transaction data, Finansinspektionen analysed trading in Haldex's share executed during the period 14 April–7 June 2022. Finansinspektionen identified through this analysis three actors with a link to Nasdaq Stockholm's trade monitoring that each purchased a large volume of shares during the period in question without selling any shares. All three actors deviated from their respective earlier trading patterns.

According to the stock exchange's trade reports, a total of 14,354 transactions in Haldex's shares were executed during the period in question. All transactions in the share executed by the three actors are included in the trade reports from the stock exchange.

Closing remarks

Two actors with a link to Nasdaq Stockholm's trade monitoring are involved in all company events described above. A few more individuals with a link to the trade monitoring are involved in two or three of the events described above.

2.1.4 Nasdaq Stockholm's position

According to Nasdaq Stockholm, the stock exchange's analysis of trading and reporting to Finansinspektionen occurred in line with the regulatory framework, and the stock exchange has also done what can reasonably be required to prevent and detect suspected insider dealing. Nasdaq Stockholm points out that a prerequisite for submitting a notification to the authority is that the stock exchange had a reasonable suspicion of insider dealing or attempted insider dealing. The transactions in question did not give, and should also not have given, rise to reasonable suspicion of insider dealing at the relevant points in time given the information the stock exchange had access to at each point in time, both internally as a part of the operation of the trading venue and that was available in general.

Nasdaq Stockholm states that the transactions can be considered suspicious transactions given what is now known but takes the position that the conclusion cannot be used as a basis for the assessment of whether the stock exchange followed the regulatory framework.

Nasdaq Stockholm states that the stock exchange's review and reporting is based on, among other things, well-established criteria set out in the regulation to identify suspected insider dealing. Commission Delegated Regulation (EU) 2017/565⁸ mentions specifically normal trading patterns for financial instruments admitted to trading on a trading venue (in contrast to individual end customers' trading patterns). This assessment considers deviations from normal trading patterns for financial instruments admitted to trading or traded on the trading venue and the information available to the stock exchange in general. This information then serves as a basis for additional analysis, for example to investigate any personal connections and whether there are suspicions that the person executing the transactions may have had access to insider information based on the transactions that have been identified as suspicious. Transactions are reported to Finansinspektionen when a reasonable suspicion of actual or attempted insider dealing arises during the trade monitoring; in other words, the suspicion can be considered to have reached a certain level in accordance with Article 6(1) of Commission Delegated Regulation (EU) 2016/957.

Nasdaq Stockholm highlights that when the stock exchange receives MNPI, it is primarily the actual trade in the share that the stock market monitors more carefully, not a specific group of people, since the stock exchange cannot identify everyone who potentially would be able to have access to insider information about a company. In the cases in question, the MNPI that Nasdaq

⁸ Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

Stockholm had access to did not make it possible for the stock exchange to make the personal connections that Finansinspektionen has made.

Given the trading patterns in the shares in question, and given what was known about the trade at that point in time, a more detailed investigation into any personal connections and any access to insider information could not be required. According to the stock exchange, the transactions that were executed by the person with a clear link to the stock exchange's trade monitoring did not have any effect on price or volume in a manner that deviated from the statistically expected level. The transactions also did not represent a large share of the total trading volume during each period. Furthermore, the transactions were executed in periods during which there were rumours and speculation on the market, which made it difficult to determine if the transactions deviated from the trade as a whole in the shares in question.

According to Nasdaq Stockholm, it only progresses to, for example, an analysis of whether an actor's trading behaviour in an instrument is deviant compared to historical transactions in the same financial instrument, or whether an actor's trading behaviour in an instrument is unusual compared to transactions in other financial instruments, when it has cause to conduct a more in-depth review of a certain account. This is a natural consequence of how the trade monitoring is designed according to applicable regulatory frameworks and that technological systems are combined with human analysis. This is also a practical necessity given that on average 550,000–590,000 share transactions are executed every trading day on the stock exchange's trading venues. According to the stock exchange, not all of the actors that executed the transactions in question have deviated sharply from their respective earlier trading patterns.

2.1.5 Finansinspektionen's assessment

The transactions constitute suspected insider dealing

The transactions in question were executed by actors with a link to ICA and Nasdaq Stockholm's trade monitoring in conjunction with major company events. The transactions refer to the purchase of large volumes of shares in the companies during the periods between the MNPI and the disclosure of the company events. The actors did not sell any shares in the companies during the period. All actors deviated in the transactions from their earlier trading patterns, in several cases significantly.

With reference to this, Finansinspektionen determines that the transactions give rise to suspicions of insider dealing. The question is thus whether the circumstances are such that this is something that Nasdaq Stockholm should have detected in its monitoring.

The suspicious transactions should have been detected

As mentioned previously, Finansinspektionen has analysed the trading in the companies' shares during a limited period prior to the disclosure of each company event. The authority has not only analysed trading patterns in the shares but also the trading of individual actors. During this analysis, the authority has identified the largest net buyers that are natural persons and the actors that have made relatively large purchases without selling any shares in the company during the period. The actors' trading has been compared to their historical trading patterns. When Finansinspektionen has found cause to expand the analysis due to what it has found, the authority has searched for personal and company links to the information about each company event.

Nasdaq Stockholm has analysed trading patterns but does not consider the stock exchange to be obligated to analyse trading at the individual level in conjunction with the company events in question and thus has not done so.

To start with, it can be noted that Nasdaq Stockholm had received MNPI about the four company events. From the point in time that Nasdaq Stockholm received the information, the stock exchange had knowledge that there was insider information linked to each company that with all probability had a major impact on the share price. There is therefore a risk of insider dealing that should have justified a more in-depth review. In addition, the MNPI gave the stock exchange the conditions and the cause to review the shares in question even prior to the information being disclosed. As described in Nasdaq Stockholm's own rules for issuers⁹, the purpose of MNPI is also so the stock exchange can analyse the trading and take necessary measures.

Finansinspektionen thus notes that the MNPI justified special measures given that there was an elevated risk of insider dealing. However, the MNPI did not on its own constitute a basis for investigating the trading of individuals.

When assessing whether there had been cause for investigating the trading of individuals, the authority notes that Nasdaq Stockholm raises the objection that the stock exchange does conduct a more in-depth review but only if there are grounds for such. According to the stock exchange, this is a practical necessity given the large number of share transactions that are executed every trading day on the stock exchange's trading venues.

Finansinspektionen refers to Articles 2(3) and 2(4) of the delegated regulation, which state that the stock exchange's system shall guarantee effective and ongoing monitoring of all transactions executed, regardless of the types of clients concerned. According to the first subparagraph, point a, of Article 2(5), the

⁹ Nordic Main Market Rulebook for Issuers of Shares – Regelverk för aktieemittenter på huvudmarknaden, in its wording on 1 February 2021.

systems must be appropriate and proportionate in relation to the scale, size and nature of the business activity.

Nasdaq Stockholm operates the largest trading venue in Sweden, which by necessity places high demands on the stock exchange's monitoring system. The fact that Nasdaq Stockholm has extensive trading on the trading venues it operates does not entail that the requirements on monitoring are lowered; rather, the monitoring organisation must be adapted to the size of the operations. Key to this is also that the matter relates to transactions in large issuers' shares during periods with available MNPI about pending takeovers or mergers. In order for Nasdaq Stockholm to fulfil the specified requirements in the regulatory framework, the stock exchange's trade monitoring must be adapted to be able to handle and analyse trading particularly carefully when such information exists. Otherwise, MNPI does not fulfil any actual function in the monitoring.

In order for Nasdaq Stockholm to be able to detect suspected insider dealing in conjunction with major company events to the extent required by the regulatory framework, the stock exchange needs to analyse the trading of individuals. If the review is limited solely to trading patterns for a share, there is an overhanging risk that only a very large trade that from a purely statistical perspective deviates in volume, price influence or percentage of the total turnover in the share during the period would generate suspicions. Given such conditions, insider trading could avoid identification, for example by being executed in many small transactions over a longer period of time. Extensive insider dealing could also hide and not be detectable in large issuers that have large trading volumes.

Which individuals' trading needs to be analysed must be determined on a case-by-case basis. However, it is Finansinspektionen's opinion that, as a starting point, the analysis must include as a minimum the largest net buyers that are natural persons and actors that made relatively large purchases prior to the disclosure without selling any shares in the companies in question during the same period. Such conditions are namely indications of insider dealing given an expected jump in price. A more in-depth analysis is also needed, for example based on the selected individuals' historic trading patterns. If the analysis continues to give rise to suspicions, it needs to be supplemented with searches for personal and company connections to insider information in order for suspected insider dealing to be detected.

Finansinspektionen notes that the majority of the individuals that executed the transactions were among the largest natural net buyers in conjunction with one or several of the company events. They also did not sell any shares in the companies in question during the periods under review. According to Finansinspektionen, the stock exchange should have identified these actors in its analysis and conducted a more in-depth analysis of each actor's trades.

Finansinspektionen's analysis of the actors' trades also shows that all of them deviated from their respective earlier trading patterns. In some case the

deviations were significant. In many cases the actors did not normally trade in shares on Nasdaq's regulated market or had not previously executed transactions in the company in question. If Nasdaq Stockholm had conducted a corresponding analysis of the actors' trading, it is obvious that this would have generated suspicions of insider dealing at the stock exchange and led to further review in the form of searches for connections to persons who can be assumed to have insider information.

There is cause in the assessment to emphasise that Finansinspektionen easily found the links between the traders and ICA and the traders and Nasdaq Stockholm's trade monitoring. In the case of ICA, most of the traders were ICA store owners; the link to ICA was therefore obvious. The link to trade monitoring could also easily be identified, primarily because the actor that traded privately and through a company on all investigated occasions had a close connection to an employee at Nasdaq Stockholm's trade monitoring. Finansinspektionen therefore takes the position that Nasdaq Stockholm also should have been able to identify the personal connections. Nasdaq Stockholm's objection that the stock exchange could not reasonably had, or could have obtained, knowledge about the existence of personal connections is therefore difficult to understand.

In summary, based on the information presented above, Nasdaq Stockholm should have detected the suspicious transactions.

The monitoring has not been effective

According to MAR and the Securities Market Act, Nasdaq Stockholm is obligated to establish and maintain effective arrangements, systems and procedures aimed at preventing and detecting insider dealing and attempted insider dealing. According to the delegated regulation, these arrangements, systems and procedures shall ensure effective and ongoing monitoring of all orders received and all transactions executed for the purposes of preventing, detecting and identifying insider dealing. They shall also allow for the analysis, individually and comparatively, of each and every transaction and order.

According to the delegated regulation, Nasdaq Stockholm is furthermore obligated to put in place and maintain arrangements and procedures that ensure an appropriate level of human analysis in the monitoring, detection and identification of transactions and orders that could constitute insider dealing.

In other words, Nasdaq Stockholm is obligated to have arrangements, systems and procedures that ensure an effective monitoring of trade and enable the stock exchange to identify suspected insider dealing. Finansinspektionen makes the assessment that Nasdaq Stockholm, for all four company events, has disregarded its obligations pursuant to the first subparagraph of Article 16(1) of MAR. Correspondingly, Finansinspektionen makes the assessment that Nasdaq Stockholm, when the transactions were made, has disregarded its obligations

pursuant to Chapter 13, section 7, first paragraph, first sentence of the Securities Market Act.

In its assessment, the authority has considered in particular that Nasdaq Stockholm has not ensured a suitable level for analyses performed of people in monitoring, detection and identification of transactions and orders that could constitute insider dealing.

Nasdaq Stockholm has not reported suspected insider dealing

Finansinspektionen notes above that the transactions give rise to reasonable suspicions of insider dealing and that Nasdaq Stockholm should have detected this. According to the rules set out in MAR and the Securities Market Act, the stock exchange is obligated to notify the authority without delay about transactions that could constitute insider dealing.¹⁰ By not informing Finansinspektionen about the transactions, Nasdaq Stockholm has disregarded the provision set out in the second subparagraph of Article 16(1) of MAR and also not fulfilled the requirement set out in Chapter 13, section 7, second paragraph of the Securities Market Act.

2.2. Conditions for admission to trading

2.2.1 Introduction

Finansinspektionen discusses in this section two separate events where Nasdaq Stockholm decided to start trading in financial instruments on Nasdaq's regulated market. At the point in time when the trading started, Finansinspektionen had not approved and registered the prospectuses for the instruments in question. Finansinspektionen will now determine whether Nasdaq Stockholm followed the rules on admission to trading on these two occasions.

2.2.2 Legal basis

Chapter 13 of the Securities Market Act contains provisions regarding the stock exchange's operations. Pursuant to Chapter 13, section 3, first paragraph of the Securities Market Act, financial instruments may be admitted to trading on a regulated market by the stock exchange, after an assessment pursuant to Chapter 15, section 2 of the same act, decided on admission to trading.

If there is an obligation to prepare a prospectus pursuant to the Prospectus Regulation, Chapter 13, section 3, second paragraph of the Securities Market Act states that trading in the instrument may not start until the prospectus has been

¹⁰ The wording in Article 16(1) of MAR and Chapter 13, section 7 of the Securities Market Act governing this obligation differs slightly. However, the meaning is the same.

1. approved and registered at Finansinspektionen or the authority has received a notification pursuant to Article 25 of the Regulation, and
2. disclosed in accordance with the Regulation.

Pursuant to Article 3(3) of the Prospectus Regulation, without prejudice to Article 1(5) of the same regulation, securities may only be admitted to trading on a regulated market situated or operating within the Union after prior publication of a prospectus in accordance with this Regulation. Pursuant to Article 20(1), a prospectus may not be published unless the relevant competent authority has approved it or all of its constituent parts in accordance with Article 10 of the Regulation.

According to the recitals in the Prospectus Regulation, the regulation aims to ensure investor protection and market efficiency, while enhancing the internal market for capital (Recital 7). The recitals specify that disclosure of information in cases of offers of securities to the public or admission of securities to trading on a regulated market is vital to protect investors by removing asymmetries of information between them and issuers (Recital 3).

2.2.3 Details of the events

Bonds

Stillfront Group AB (Stillfront) disclosed on 7 September 2023 that the company had issued new senior unsecured bonds totalling SEK 1 billion (the bonds). On 13 September 2023, Nasdaq Stockholm received an application from an actor other than Stillfront for the bonds to be admitted to trading on Nasdaq's regulated market. On the same day, Nasdaq Stockholm published a market notice stating that the stock exchange had decided to admit the bonds to trading as of 14 September 2023. At that point, the prospectus for the bonds had not been approved by or registered with Finansinspektionen, and neither had it been disclosed.

Finansinspektionen approved the prospectus for the bonds on 18 September 2023, and the prospectus was disclosed the same day.

On 20 September 2023, Finansinspektionen was informed that the bonds had been admitted to trading on Nasdaq's regulated market prior to there being an approved and registered prospectus and the prospectus being disclosed according to the Prospectus Regulation. When Finansinspektionen contacted Nasdaq Stockholm on 21 September 2023, as a result of the information, the stock exchange had not yet informed Finansinspektionen about the event.

The structured product

On 19 December 2023, after Finansinspektionen had opened an investigation into the admission to trading of the above-mentioned bonds, Nasdaq Stockholm

informed the authority that in April 2022 the stock exchange had admitted a structured product issued by Goldman Sachs International to trading on Nasdaq's regulated market, for which there was no approved and registered prospectus and without the prospectus having been disclosed pursuant to the Prospectus Regulation.

According to Nasdaq Stockholm, the stock exchange received an application on 26 April 2022 for three financial instruments to be admitted to trading on Nasdaq's regulated market. However, one of these three instruments, a structured product (the structured product), was incorrectly included in the application since the intention was instead that it should be traded on the MTF Nasdaq First North Sweden. Because the intention was never for the structured product to be admitted to trading on the regulated market, there was no prospectus for it. Nasdaq Stockholm still decided on 26 April 2022, in accordance with the application, to admit the structured product to trading on the regulated market as of 27 April 2022.

Nasdaq Stockholm detected the error on 2 October 2022 and informed Goldman Sachs International on 28 February 2023. However, the event was not reported to the stock exchange's internal incident reporting system. The structured product was delisted from Nasdaq's regulated market on 6 March 2023 and at the same time was made available for trading on Nasdaq First North Sweden. In conjunction with an internal review resulting from Finansinspektionen's investigation into the Stillfront bonds, Nasdaq Stockholm also identified this incident.

2.2.4 Nasdaq Stockholm's position and Finansinspektionen's assessment

Nasdaq Stockholm has confirmed that the bonds and the structured product were admitted to trading on Nasdaq's regulated market even though there was no prospectus approved by and registered with Finansinspektionen or disclosed in accordance with the Prospectus Regulation. According to Nasdaq Stockholm, this is not a systemic deficiency, but rather an incorrect handling by an individual employee.

Finansinspektionen is not assessing whether the events are dependent on systemic deficiencies. However, the provision set out in Chapter 13, section 3 of the Securities Market Act states that there must be a verification of whether a prospectus is required *in every instance* of a financial instrument being admitted to trading on a regulated market. If a prospectus is required, the requirements relating to the prospectus obligation must be met before trading may start. Finansinspektionen notes that Nasdaq Stockholm has disregarded the provision set out in Chapter 13, section 3, second paragraph of the Securities Market Act.

3 Consideration of intervention

3.1 Nasdaq Stockholm's position

3.1.1 Monitoring and reporting of suspected insider dealing

Nasdaq Stockholm asserts that Article 16(1) of MAR constitutes *lex specialis* in relation to Chapter 13, section 7 of the Securities Market Act and that Finansinspektionen should therefore apply Chapter 5 of the Supplemental Provisions for the EU Market Abuse Regulation Act (2016:1306) in the event of an intervention. Nasdaq Stockholm also states that the stock exchange did not have knowledge of, and could not reasonably be expected to have or obtained knowledge of, the various personal connections that exist between those that executed the transactions and the stock exchange's trade monitoring or ICA. According to Nasdaq Stockholm, Finansinspektionen should consider that the stock exchange has actively cooperated to facilitate the investigation and even submitted notification of additional transactions. When Finansinspektionen opened its investigation, Nasdaq Stockholm immediately initiated a comprehensive review of the trade monitoring function. Nasdaq Stockholm also states that the stock exchange has earmarked large personnel and financial resources to conduct reinforcements, such as, among other things, including additional limitations in the handling of insider information in the monitoring function and formalising and quality assuring investigation processes and analysis work in the trade monitoring.

3.1.2 Conditions for admission to trading

Nasdaq Stockholm states that the stock exchange is treating the events with the utmost seriousness. The stock exchange has performed a review of an extensive sample that shows that it complies with Chapter 13, section 3 of the Securities Market Act with the exception of the two incidents that Finansinspektionen has investigated. According to the stock exchange, on both occasions that the errors were made, there were adequate procedures that contained clear instructions that an instrument may not be admitted to trading on Nasdaq's regulated market before there is an approved prospectus, as long as there is no valid exception. The incidents occurred, according to the stock exchange, due to pure oversight caused by employees incorrectly specifying that there were approved prospectuses when handling the applications. Nasdaq Stockholm handles a large number of applications every year for financial instruments to be admitted to trading. Because the incidents in question were unintentional oversights in a frequently recurring process, Nasdaq Stockholm considers them to be of such a nature that they should be viewed as negligible; thereby, an intervention is not necessary. If Finansinspektionen still considers an intervention to be necessary, the stock exchange takes the position that these circumstances should be considered when the authority assesses which type of intervention should occur.

Furthermore, Nasdaq Stockholm states that there was no trading in the instruments in question during the period they were admitted to trading without an approved, registered and disclosed prospectus. According to the stock exchange, neither investors nor issuers suffered an economic loss. The stock exchange has not avoided any costs as a result of the events and has also not gained any revenue.

Nasdaq Stockholm also states that the bonds were only admitted to trading for two trading days without an approved prospectus and highlights that these financial instruments basically were inaccessible for retail investors. According to the stock exchange, when it comes to the structured product, the amount of time from when the error was detected until measures were taken was due to the human factor in handling the case. According to Nasdaq Stockholm, there is nothing to indicate that the events have had any effect on the financial system or that they have had any negative impact on the stock exchange's stability.

Nasdaq Stockholm takes the position that the stock exchange has cooperated actively with Finansinspektionen throughout the entire investigation by answering all of the authority's questions quickly and comprehensively. Nasdaq Stockholm takes the position that Finansinspektionen should consider in particular that the stock exchange informed the authority on its own initiative about the incident related to the structured product following an internal review that was started as a result of the authority's investigation into the admission of bond trading.

Nasdaq Stockholm states that the stock exchange has taken several measures to further minimise the risks of similar incidents in the future. Nasdaq Stockholm takes the position that, given the reinforcement measures that the stock exchange has taken, there is no doubt that the stock exchange has taken the incidents very seriously and that there is no reason to believe that the stock exchange will not comply with Chapter 13, section 3 of the Securities Market Act going forward.

3.2 The violations require intervention

3.2.1 Intervention provisions in the Securities Market Act will be applied

Finansinspektionen notes initially that the deficiencies in Nasdaq Stockholm's monitoring and reporting of suspected insider dealing means that the stock exchange has violated the provisions in both MAR and the Securities Market Act.

According to Chapter 5, section 2, point 1 of the Supplemental Provisions for the EU Market Abuse Regulation Act, Finansinspektionen shall intervene against a person who has circumvented their obligations in accordance with MAR by not establishing and maintaining effective arrangements, systems and procedures in

accordance with that set out in Article 16(1) of MAR or report to Finansinspektionen in accordance with what is stated there.

Chapter 25, section 1, first paragraph of the Securities Market Act states that the authority shall intervene against a stock exchange that has disregarded its obligations in accordance with the law or other regulations governing the firm's business. MAR falls under other regulations.

When it comes to the violations of the provisions regarding monitoring and reporting of suspected insider dealing, Finansinspektionen has the possibility of intervening in accordance with the Supplemental Provisions for the EU Market Abuse Regulation Act and the Securities Market Act. The preparatory works to the Supplemental Provisions for the EU Market Abuse Regulation Act state that if a procedure can be considered to be in violation of several acts, Finansinspektionen can choose between the intervention possibilities that exist and choose the one that appears to be the most effective in the situation in question (Bill 2016/17:22 pp. 182 and 205).

Finansinspektionen notes that all violations refer to material provisions in the Securities Market Act, even when they also entail violation of MAR. In one case in particular Finansinspektionen considers it most effective to intervene in accordance with the Securities Market Act and apply the following provisions in Chapter 25 of this act.

3.2.2 There are grounds on which to intervene

Finansinspektionen, according to Chapter 25, section 2, second paragraph of the Securities Market Act, may refrain from intervening, in part if the violation is negligible or excusable or if the stock exchange rectifies the situation.

Finansinspektionen's investigations show that there have been deficiencies in how Nasdaq Stockholm has conducted its trade monitoring to prevent and detect insider dealing and the stock exchange's reporting of suspected insider dealing. Furthermore, the investigations show that Nasdaq Stockholm on two occasions in 2022 and 2023 did not follow the regulations in conjunction with financial instruments being admitted to trading. The identified deficiencies have entailed that Nasdaq Stockholm has disregarded its obligations pursuant to Article 16(1) of MAR and Chapter 13, sections 3 and 7 of the Securities Market Act.

As Finansinspektionen discusses below, Nasdaq Stockholm has violated central provisions that aim to maintain a stable and safe securities market and ensure investor protection. These violations cannot be considered negligible.

When it comes to the violations related to the admission to trading, Nasdaq Stockholm has referred to the rulings HFD 2019 Ref. 72 and HFD 2022 Ref. 23, where the Supreme Administrative Court, with reference to Bill 2016/17:22 p. 391 f., specifies that a violation could be excusable, for example, if it is obvious

that it has been made due to an oversight. Both the cases and the statement in the preliminary works refer to intervention according to the Supplemental Provisions for the EU Market Abuse Regulation Act. Such interventions can target both natural persons and non-financial corporations like financial firms. In general, high requirements must be placed on financial firms when it comes to following the rules that apply to the operations. Nasdaq Stockholm has disregarded its obligations pursuant to the provisions on admission of financial instruments to trading, which constitutes a part of the stock exchange's core business. The stock exchange has a far-reaching responsibility to ensure that its operations are carried out in accordance with applicable regulations. According to Finansinspektionen, the possibility for considering in such a case that a violation is excusable with reference to it having occurred as an oversight is very limited. The authority therefore does not consider it possible for the violations to be viewed as excusable.

Overall, in other words, Finansinspektionen considers there to be grounds on which to intervene against Nasdaq Stockholm.

3.3 Choice of intervention

3.3.1. Applicable provisions

Accordance to Chapter 25, section 1, second paragraph of the Securities Market Act, Finansinspektionen can intervene by ordering the stock exchange to rectify the situation or issuing a remark. Where the violation is severe, according to the third section of the same act, the authorisation of the firm should be withdrawn or, if sufficient, a warning issued.

According to Chapter 25, section 2, first paragraph of the Securities Market Act, when determining the sanction, Finansinspektionen shall take into consideration the severity of the violation and its duration. Special consideration shall be given to the nature of the violation, the tangible and potential effects of the violation on the financial system, the losses incurred, and the degree of liability.

According to Chapter 25, section 2a of the Securities Market Act, Finansinspektionen shall consider as an aggravating circumstance previous violations by the stock exchange. In this assessment, particular weight shall be attached to whether the violations are similar in nature and the time elapsed between the various violations. As a mitigating circumstance, Finansinspektionen shall consider if the stock exchange to a significant extent, through active cooperation, facilitated the investigation and promptly ceased the violation after it was reported to or identified by Finansinspektionen.

3.3.2. Finansinspektionen's assessment

Finansinspektionen's investigations show that Nasdaq Stockholm has disregarded its obligations pursuant to central provisions that apply to the stock exchange's business. The rules Nasdaq Stockholm has violated are all fundamental for maintaining good investor protection and well-functioning markets. There is in this respect grounds on which to take a strict view that the trade monitoring has demonstrated clear deficiencies that have led, on several occasions during a relatively short period of time, to suspected insider dealing not having been detected and reported to the authority. The deficiencies in the monitoring have meant that Nasdaq Stockholm has not been able to take measures to prevent the additional suspicious transactions included in the decision. These deficiencies have thus had a concrete impact on the financial system. There is also a risk that the deficiencies could have a negative impact on both the issuers' confidence in the stock exchange's trade monitoring and the entire market's confidence in the financial system and the market's integrity. Thus, this entails that Nasdaq Stockholm has committed violations that are of such a nature and scope that there are grounds on which to view them seriously.

Correspondingly, the violations of the provisions regarding admission to trading could have an impact on the financial system. The regulation that an approved and registered prospectus is required before trading may start is central for investor protection. By disregarding the regulation, there is a risk of serious consequences for individual investors, who have less of a possibility of making well-grounded investment decisions. There is also a risk that non-compliance with rules could damage confidence in the stock exchange and the market in general.

With regard to assessment of the degree of liability, the preparatory works to the regulation in the Securities Market Act state that the considerations to be taken provide Finansinspektionen with an opportunity to recognise whether there were mitigating circumstances in that a violation was the result of behaviour which, due to special circumstances, could be considered to be less reprehensible than otherwise (Bill 2013/14:228 p. 240). There are no such circumstances in this case. Quite the opposite, there are circumstances that indicate that Nasdaq Stockholm's behaviour at times was more reprehensible. The stock exchange is responsible for how the monitoring of trade is carried out and for the workforce to be properly dimensioned so the monitoring could be carried out in accordance with the regulations. The stock exchange's negligence to analyse the trading in more detail on the occasions in the investigation has entailed that the personal connections that existed between a person who has had access to MNPI at the stock exchange and traders have not been identified. Since the stock exchange has not identified clear cases of suspected insider dealing, it has been possible to execute additional suspicious transactions in subsequent company events handled in the decision without them having been identified and reported as suspicious. That the stock exchange despite these conditions does not consider more in-depth analysis of the trading to be necessary in the cases in this matter

demonstrates a remarkable perception of the stock exchange's assignment and the trade monitoring's importance for the market. Finansinspektionen views this seriously based on the stock exchange's role and function in the financial system.

Nasdaq Stockholm asserts as a mitigating circumstance that the stock exchange in both investigations has actively cooperated with Finansinspektionen and that they reported on their own initiative the incident with the structured product. It is correct that it was Nasdaq Stockholm that, after the investigation was opened, reported that the structured product had been admitted to trading in violation with the regulation. However, it does not come close to being a mitigating circumstance that impacts the assessment since it is clear that Nasdaq Stockholm, despite knowledge that the structured product was incorrectly admitted to trading, did not take measures for many months. With reference to that presented here and that otherwise identified, Finansinspektionen does not consider Nasdaq Stockholm to have cooperated more actively than what should reasonably be expected by a firm under supervision.

There are also several circumstances that support a more stringent approach to the choice of the intervention. When assessing the severity of the violation, however, consideration must also be given to the fact that there were only a few cases during a relatively limited period of time. Based on the investigations, it is not possible to draw the conclusion that Nasdaq Stockholm is not able to follow the rules that apply to the business. Nasdaq Stockholm has also committed to taking measures to minimise the risks of similar incidents in the future. There are also grounds to consider to some extent that Nasdaq Stockholm objects that no trade occurred in the bonds and the structured product during the period they were adopted to trading in violation of Chapter 13, section 3 of the Securities Market Act. The investigations also do not show that any harm occurred as a result of the violations. Therefore, Finansinspektionen's overall assessment is that the violations in question cannot be considered to be serious in the meaning as set out in Chapter 25, section 1, third paragraph of the Securities Market Act and that it is not relevant to withdraw Nasdaq Stockholm's authorisation or issue the stock exchange a warning. The sanction should instead be limited to a remark. In order for the remark to be a sufficient intervention, it must be accompanied by an administrative fine.

3.4. Size of the administrative fine

3.4.1. Applicable provisions

According to Chapter 25, section 8 of the Securities Market Act, Finansinspektionen may issue a remark or warning together with an administrative fine.

According to Chapter 25, section 9 of the Securities Market Act, the administrative fine for a stock exchange should be set at the highest of

1. an amount as per 2 July 2014 in SEK corresponding to EUR five million,
2. ten per cent of the firm's turnover or, where applicable, corresponding turnover at the group level for the immediately preceding financial year, or
3. two times the profit recorded by the firm as a result of the infringement, if the amount can be determined.

The administrative fine may not be set at an amount smaller than SEK 5,000.

When the administrative fine is determined, according to Chapter 25, section 10 of the Securities Market Act, special consideration shall be given to such circumstances as those set out in sections 2 and 2a of the same chapter and to the stock exchange's financial position, and, if it is possible to determine, to the profit that the institution earned as a result of the violation.

Article 70 of MiFID II states that sanctions should be effective, proportionate and dissuasive.

3.4.2 Finansinspektionen's assessment

It has not been possible to ascertain the extent to which Nasdaq Stockholm has profited as a result of the violations. The highest possible administrative fine determined by turnover will exceed an amount corresponding to EUR 5 million. The maximum amount for the administrative fine will therefore be based on turnover.

Nasdaq Stockholm's most recently adopted annual report refers to the 2023 financial year. According to this report, the stock exchange's net sales were SEK 2,103 million. Since Nasdaq Stockholm is part of a group, the highest possible administrative fine may not be based on the stock exchange's net sales but rather on the corresponding net sales at the group level. During the 2023 financial year, this turnover was SEK 41,337 million. Because the administrative fine may be at the most ten per cent of the Group's net sales for the previous financial year, the highest amount the administrative fine can be is SEK 4,133 million.

When determining the highest amount for the administrative fine based on the Group's net sales, it is not always reasonable to set the fine as an equally large share of the highest amount as when the highest amount is based on the company's net sales. This applies in particular when the company's net sales only correspond to a minor share of the Group's net sales, where there is a risk that such an administrative fine would be disproportionately high and not give sufficient consideration to the company's financial position. At the same time, the administrative fine is set at a higher amount than otherwise for the Group's net sales to have an impact on the assessment. How much higher the amount

should be for an intervention to be both proportionate and dissuasive depends primarily on the severity of the violation.

In the previous section, Finansinspektionen accounts for its assessment of the violations. The circumstances the authority presents regarding the choice of intervention are such that also should be considered when Finansinspektionen determines the size of the administrative fine. As the authority notes, Nasdaq Stockholm has disregarded its obligation pursuant to central provisions that apply to the stock exchange's business. The rules Nasdaq Stockholm has violated are fundamental for maintaining good investor protection and well-functioning markets. There is also a risk that the violations could harm confidence in the stock exchange and the market at large. Given this and the stock exchange's role and function in the financial system, there are grounds on which to issue Nasdaq Stockholm a tangible administrative fine.

As stated above, the administrative fine may be a maximum of SEK 4,133 million. Given Nasdaq Stockholm's financial position and the circumstances that in general must be considered when setting the administrative fine, Finansinspektionen makes an overall assessment that the violations correspond to an administrative fine of SEK 100 million. Finansinspektionen has thus used Nasdaq Stockholm's net sales but also to some extent considered the Group's net sales. This means that the administrative fine has been set at a higher amount than what would have been the case if the company had not been part of a group.

The administrative fine will accrue to the Swedish Government and is invoiced by Finansinspektionen after the decision enters into force.

FINANSINSPEKTIONEN

Beatrice Ask
Chair of the Board of Directors

Emma Lampe Nathalie Lacotte
Senior Legal Counsellor Senior Legal Counsellor

The decision in this case was made by Finansinspektionen's Board of Directors (Beatrice Ask, chair, Maria Bredberg Pettersson, Camilla Asp, Cecilia Renfors, Charlotte Zackari and Daniel Barr, director general) after a presentation by

Senior Legal Counsellor Emma Lampe and Senior Legal Counsellor Nathalie Lacotte. Chief Legal Counsel Eric Leijonram, Department Director Clara Ahlqvist, Unit Head Susanne Ellegård, Senior Supervisor Carl Öhman, and Senior Advisor Erik Willers also participated in the final proceedings in the matter.

Appendix – How to appeal

Copy: Nasdaq Stockholm Aktiebolag's CEO

How to appeal

It is possible to appeal the decision if you consider it to be erroneous by writing to the Administrative Court. Address the appeal to the Administrative Court in Stockholm, but send the appeal to Finansinspektionen, Box 7821, 103 97 Stockholm or finansinspektionen@fi.se.

Specify the following in the appeal:

- Name, personal ID number or corporate ID number, postal address, email address and telephone number
- The decision you are appealing against and the case number
- What change you would like and why you believe the decision should be changed.

If you engage a legal representative, specify the name, postal address, email address and telephone number of the legal representative.

Finansinspektionen must receive the appeal within three weeks from the day you received the decision.

If the appeal was received on time, Finansinspektionen will assess whether the decision will be changed and then send the appeal, the documents in the appealed case and the new decision, if relevant, to the Administrative Court in Stockholm.