

## Nasdaq Copenhagen’s Decisions and Sanctions 2019

1.	Main Market.....	2
1.1.	Sanctions.....	2
	Shares.....	2
1.1.1.	Multiple cases of late disclosure of inside information and other types of information to be disclosed according to the rules of the exchange .....	2
1.1.2.	Lack in distribution of announcement to the market.....	6
	Investment funds (blank) .....	7
	Bonds .....	7
1.1.3.	Late disclosure of annual report.....	7
	Members (blank).....	7
1.2.	Declarations (blank).....	7
2.	First North.....	8
2.1.	Sanctions.....	8
	Shares.....	8
2.1.1.	Late disclosure of inside information.....	8
2.1.2.	Late disclosure of changes to the executive board.....	8
	Investment funds (blank) .....	9
	Bonds (blank).....	9
	Members (blank).....	9
	Certified Advisers (blank).....	9
2.2.	Declarations (blank).....	9
3.	General statements (blank).....	9

## 1. MAIN MARKET

### 1.1. SANCTIONS

#### SHARES

##### **1.1.1. Multiple cases of late disclosure of inside information and other types of information to be disclosed according to the rules of the exchange**

*(Atlantic Petroleum P/F)*

In the period between 2 December 2018 and 13 May 2019, the Exchange identified six instances of possible non-compliance with the rules.

#### 1. Q3-report for 2018

According to section 3.3 in the Rulebook for Issuers of Shares (the rulebook) a company must disclose (if it chooses to disclose interim information) interim information or quarterly reports in the same manner as half-yearly reports. According to section 3.3.3 in the rulebook a company must disclose interim reports within two months of the expiration of the reporting period.

On 2 December 2019, the company disclosed its Q3-report for 2018. The deadline for disclosure was 30 November 2018. Nasdaq Copenhagen sent a letter to the company requesting an explanation for why the disclosure took place on 2 December 2019.

The company explained that the report was finalized on 30 November 2018. The company was not able to disclose the report because the distribution service provider was inaccessible for 24 hours due to system maintenance. The company also explained that it did not have documentation for system unavailability for the entire weekend, because it was not considered to be a priority action to gather evidence to deliver at a future enquiry. The company has not provided documentation for any efforts made to work around the system down time.

The exchange assess that the company did not disclose the report as soon as possible and additionally disclosed the report after the two-month deadline and hence violated section 3.3.3 in the rulebook.

The company also highlighted that the delay in disclosure amounted to 30 hours and 15 minutes in a period where the markets were closed and that the company had worked diligently “only to be stymied by a system down-time”. In that respect, Surveillance note that it is not relevant that the markets are closed.

It is also noted that Surveillance encourage companies to plan their financial disclosures to take place well in advance of the deadlines in order to mitigate the risk of necessary changes, unforeseen events and system failures affecting timely disclosure.

#### 2. Company calendar

According to section 3.3.16 in the rulebook a company must disclose its company calendar prior to the start of each financial year.

On 3 January 2019 Nasdaq Copenhagen noted that the company had not disclosed its company calendar for 2019. The company received a reminder about the disclosure the same day.

On 4 January 2019 the chairman of the board called Surveillance and explained that the CEO of the company was away on holiday and asked if disclosure could await his return. He was instructed by

Nasdaq Copenhagen on the telephone that disclosure could not wait and that he had to make sure that disclosure took place as soon as possible.

The company calendar was disclosed on 8 January 2019 at 10.00.

The exchange assess that the company has violated section 3.3.16 by disclosing the company calendar on 8 January 2019. It is not a mitigating circumstance that the CEO was unavailable. The obligation to disclose a company calendar is a recurring event and can be prepared well in advance of the deadline.

### **3. Orlando update and Blackbird & Etrick – January**

According to section 3.1 in the rulebook issuers shall disclose inside information in accordance with article 17 in the market abuse regulation (MAR). In accordance with article 2(1)(b)(i) in implementing regulation no. 2016/1055 of 29 June 2016, communication of inside information to medias must take place in a form that clearly identifies that the information is inside information.

On 21 January 2019 at 9.30, the company disclosed an announcement titled “Provision release and update on Orlando Field”. The disclosure was made as a “major shareholder announcement”. The announcement contained information about two different events.

Nasdaq Copenhagen sent an e-mail to the company requesting an explanation in relation to the categorization of the announcement. The company explained that it had misunderstood the category and intended to disclose the information as major information relevant for shareholders.

The Exchange asked the company to correct the distribution. The board urged the CEO to make the necessary corrections, but a correction was not made.

The company later explained to the exchange that the information constituted inside information and that the company had known about the provision release in the end of the year and the production update was received by the company around 20 January 2019 (exact date cannot be provided).

Based on the facts provided, the exchange assess that each of the two events fulfills the criteria in the definition of inside information. The settlement regarding provisions was done by 31 December 2018. This means that a disclosure on 21 January 2019 is a violation of section 3.1, which requires the information to be disclosed as soon as possible.

The company received confirmation of the expected duration of the postponement of the production from the Orlando Field “around 20 January 2019”. In such case, disclosure on 21 January 2019 is not “as soon as possible”.

Additionally, because of the misunderstanding of which category to use, the information was not communicated as inside information.

### **4. Decision from the Danish Business Authority**

According to section 3.1 in the rulebook issuers shall disclose inside information in accordance with article 17 in the market abuse regulation (MAR). This means that inside information must be disclosed as soon as possible.

On 18 February 2019 the Danish Business Authority (DBA) published its conclusions from a control of the annual report for 2017 and H1-report for 2018. The control lead to seven orders on delivery of further information. One of the orders required the company to elaborate on its considerations for the going-concern assumption.

On 19 February 2019 around 11.00, several medias started reporting on the decision from the DBA.



During that day, the share price increased with a maximum at 25% at 10.49 and closing price at 14.7% above the day before and thus triggered several alarms in the electronic surveillance system SMARTS. The exchange unsuccessfully tried to get in touch with the CEO and the chairman to clarify whether the decision itself constituted inside information.

On 20 February 2019, the company informed the Exchange by e-mail, that it was not able to draw any conclusions yet. The Exchange asked the company to consider if the decision itself constituted inside information. The request concerned only the decision itself and not the consequences of the decision.

On 21 February 2019, the company sent an e-mail to the exchange and explained that they needed time for some internal discussion before they can announce their conclusion. After that, the exchange sent an e-mail to the company with very clear and specific wording about the exchange's expectations to an announcement.

The company made an inside information announcement at 00.00 22 February 2019.

According to the company's response they received information about the decision on 7 February 2019. The authorities published the decision on 18 February 2019. The company disclosed the announcement after numerous requests and support from Surveillance on 22 February 2019.

The exchange assess that the company should have disclosed information about the decision on 7 February 2019. Disclosure on 22 February 2019 was not as soon as possible.

The company could and should then have followed-up with an announcement on the impact of the decision at a later stage.

## **5. Orlando update – April**

According to section 3.1 in the rulebook issuers shall disclose inside information in accordance with article 17 in MAR. This means that inside information must be disclosed as soon as possible.

On 15 April 2019 at 8.30 the company disclosed an announcement with an update on the Orlando field. The announcement was disclosed in the "inside information" category.

The company announced that it had received confirmation from a business partner that production from the Orlando field commenced late on 29 March 2019.

This information was provided to the company and made publicly available by the business partner on 1 April 2019. At first, the company assessed, that this information was aligned with previous market releases and that it did not need to be immediately disclosed. Later the company changed its assessment of the nature of the information, but have not provided an explanation as to why the information was disclosed on 15 April 2019.

The company explained that the CEO was made aware of the information on 1 April 2019. The company's own assessment is, that the information is inside information because of the limited activity of the company and the importance of the operations of the Orlando Field for the company's financial situation as a whole.

The exchange assess that disclosure 15 days after the notification cannot be considered as "as soon as possible" and hence the company has violated section 3.1.

## **6. Resolutions from general meeting**

Section 3.3.7 of the rulebook requires an issuer to disclose the resolutions from a general meeting. Any disclosures in section 3.3 shall be made in accordance with the rules applicable to section 3.1. That means that the resolutions of the general meeting shall be disclosed as soon as possible.



It is the opinion of the exchange that the developments of general meetings shall be disclosed immediately after the completion of the general meeting and as a rule the same day as the holding of the general meeting.

The Nasdaq Copenhagen Disciplinary Committee has made several decisions on this matter and the requirement is interpreted very strictly. In 2012 Nasdaq Copenhagen made a statement<sup>1</sup> on disclosure of the resolutions at the general meeting.

On 30 April 2019 the company held its annual general meeting. According to the notice to convene the general meeting it was held at 16.00.

The company disclosed an announcement on its financial situation and the sources of funding on that day. That disclosure was made at 16.10.

On 1 May 2019 at 9.30 Surveillance sent an e-mail to the company reminding that the company had an obligation to disclose the resolutions from the AGM and that the disclosure from 30 April 2019 did not fulfill that obligation.

At 1 May 12.30 the company disclosed the resolutions from the AGM and at 12.35 Surveillance received an e-mail from the company explaining that the announcement from 30 April 2019 was not meant to be an announcement of the resolutions and that disclosure less than 24 hours after the meeting was the soonest it could reasonably done.

The resolutions from the general meeting must be disclosed as soon as possible after the meeting has ended and as a main rule the same day as the holding of the general meeting. By disclosing an announcement with the resolutions from the general meeting the day after the general meeting was held and after a reminder was given by the exchange, the company violated section 3.3.7.

With regard to the cases described above, the Nasdaq Copenhagen Disciplinary Committee decided that the company had violated the rules in the following instances:

- Violation of section 3.3.3 for late disclosure of the Q3-report for 2018
- Violation of section 3.3.16 for late disclosure of the financial calendar
- Violation of section 3.1 for late disclosure of inside information about the Orlando Field on 21 January
- Violation of section 3.1 for late disclosure of inside information about the Orlando Field on 15 April 2019
- Violation of section 3.1 for late disclosure of inside information about a decision from the Danish Business Authority
- Violation of rule 3.3.7 for late disclosure of the resolutions from the general meeting

The disciplinary committee decided to reprimand the company.

In December 2018, the Nasdaq Copenhagen Disciplinary Committee further settled two cases against the company and the Disciplinary Committee decided, in the light of the company's repeated violations of the exchange's rules within a short timeframe, to aggravate the sanction to the company by imposing a fine

---

<sup>1</sup> Decisions and Statements 2012, Main Market, section 2.2: <https://www.nasdaq.com/solutions/copenhagen-disciplinary-processes>



equal to two times the annual trading fee in accordance with section 5 in the rulebook. The amount will be donated to the Nasdaq Nordic Foundation<sup>2</sup>.

### **1.1.2. Lack in distribution of announcement to the market**

*(Tivoli A/S)*

The company sent a company announcement with its half-year report for distribution and registration around 10 am. Approximately three hours later the company sent a new company announcement indicating that it was a re-distribution of the announcement sent earlier that day.

The exchange contacted the company and asked for an explanation for sending the announcement multiple times. The company explained that the announcement at the first distribution, by mistake was not distributed to the market via the media distribution list, but only to the exchange and the exchange's website. The announcement was not uploaded to the company's website either. The company found out about the mistake around 1 pm and distributed the announcement to the market.

According to rule 3.3.3 in the Rules for issuers of shares (the exchange's rules) half year reports must be disclosed within two months after the end of the reporting period. Rule 3.3.1 requires information disclosed in accordance with section 3.3, to be disclosed in the same manner as information to be disclosed according to section 3.1. That means that a half-year report must be disclosed as soon as possible, at the same time across EU and in a way that makes it possible to make a correct and timely assessment of the information.

The Exchange assessed that the company had violated rule 3.3.3, cf. rule 3.3.1 and 3.1 with the inadequate disclosure of the announcement around 10 am. That meant that there was an asymmetrical level of information in the market for approximately three hours.

The Nasdaq Copenhagen Disciplinary Committee decided to reprimand the company for not disclosing the announcement with its half-year report in accordance with the rules.

The Disciplinary Committee discussed whether the reprimand should be published without the name of the company. The Disciplinary Committee recognized that the violation was caused by a simple, human mistake in the distribution system, but also emphasized that adequate internal procedures and controls could have prevented the violation from happening.

The Disciplinary Committee also emphasized that issuers should have a procedure for controlling whether distribution has taken place correctly. Such control should include that issuers control if the information has reached the media, if the announcement is visible at the exchange's website, if the announcement has been registered with the Danish Financial Supervisory Authority (if applicable) and if the announcement has been uploaded to the issuer's own website.

The Disciplinary Committee expects that issuers with such a control procedure identifies mistakes in the distribution shortly after distribution. Because the Disciplinary Committee deemed the company's internal procedures to be inadequate in relation to make sure that the relevant check boxes are marked correctly in

---

<sup>2</sup> Information regarding the Nasdaq Nordic Foundation can be found here: <https://www.nasdaq.com/nasdaq-nordic-foundation>



the distribution system and in relation to a subsequent control, the Disciplinary Committee decided that the reprimand should be published with the company's name.

INVESTMENT FUNDS (blank)

BONDS

**1.1.3. Late disclosure of annual report**

*(Idavang A/S)*

The company discussed and approved its annual report on 27 February 2019 but a few minor adjustments were necessary before the disclosure. Those adjustments were made during the evening on 27 February 2019. At that time the person responsible for the disclosure had travelled to another country and had IT issues. For that reason the disclosure was not made until the morning of 28 February 2019.

According to rule 3.2.4 in Rules for issuers of bonds (the rules of the exchange) an issuer must disclose an annual report no later than three months after the expiration of the financial year. According to rule 3.2, the information described in rule 3.2 must be disclosed in the same manner as inside information described in rule 3.1. The disclosure of the annual report is covered in the disclosure requirements in rule 3.2.4, which means that the annual report must be disclosed as soon as possible even if the annual report is disclosed within the three month deadline.

This implies that annual and interim reports shall always be disclosed immediately after the board meeting at which the report is approved even if the report does not contain inside information.

Nasdaq Copenhagen's Disciplinary Committee therefore decided to reprimand the company for violating rule 3.2.4.

MEMBERS (blank)

**1.2. DECLARATIONS (blank)**

## 2. FIRST NORTH

### 2.1. SANCTIONS

#### SHARES

##### **2.1.1. Late disclosure of inside information**

*(Odico A/S)*

On 11 December 2018, the company announced that the day before had entered into its first contract on delivery of a new type of product.

The company explained that the company's employees after the meeting where the contract was entered into had two hours of transportation time back to the headquarters and arrived there in the evening. Drafting of the announcement was commenced the following morning and the company send its draft to its Certified Adviser and waited for their advice. A few hours later the company decided to disclose the announcement.

According to the First North Nordic Rulebook, section 4.1, an issuer must disclose inside information in accordance with article 17 in the Market Abuse Regulation. That means that inside information must be disclosed as soon as possible.

The Disciplinary Committee of Nasdaq Copenhagen decided, that the company had violated section 4.1 in the rules and decided to reprimand the company.

The Disciplinary Committee also noted that the company could and should have prepared a draft announce ahead of negotiations, so that only minor adjustments would be necessary when a contract was entered into. Any discussions with a Certified Adviser should not be an element of delay and may not impede disclosure as soon as possible.

##### **2.1.2. Late disclosure of changes to the executive board**

*(GreenMobility A/S)*

On 2 January 2019, the company disclosed a company announcement about information regarding a variety of events. The information was by mistake sent out as a press release earlier the same day and was published some hours later in the category "Press release from First North".

The announcement included information that the company's CEO had resigned with effect from 1 January 2019 and that the chairman and founder of the company would take over the CEO position. Upon request, the Exchange was informed that the decision on the change of CEO was made on 28 December 28 2019.

The company also stated that the change of CEO did not constitute inside information. This is due to specific circumstances regarding the company, including that the founder of the company, took over the CEO position on 1 January 2019, had either been chairman of the board or director since the company's





founding and thus twice has previously resigned from the board of directors and joined the executive board.

According to rule 4.2.4 of the Nasdaq First North Nordic Rulebook (the rulebook), an issuer must disclose changes to the management. The disclosure must be made in the same manner as the disclosure of inside information in accordance with rule 4.1. That means disclosure must take place as soon as possible and by distribution via the same channels as inside information.

The Exchange has not found a sufficient basis to set aside the company's assessment of the significance of the information regarding the change in the executive board. The announcement also included other information but this was not subject to any disclosure obligations in the rulebook.

It is noted that a decision on violation of the Market Abuse Regulation, including the possibility to delay disclosure of inside information, is taken by the Danish Financial Supervisory Authority.

Nasdaq Copenhagen Disciplinary Committee found that the company had violated section 4.2.4 in the rulebook and decided to reprimand the company.

INVESTMENT FUNDS (blank)

BONDS (blank)

MEMBERS (blank)

CERTIFIED ADVISERS (blank)

**2.2. DECLARATIONS (blank)**

**3. GENERAL STATEMENTS (blank)**