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NASDAQ STOCKHOLM

DECISION

10 Sep 2020

DISCIPLINARY COMMITTEE

2020:12

Nasdaq Stockholm

Westpay AB (publ)

DECISION

The Disciplinary Committee orders Westpay AB to pay Nasdaq Stockholm a fine corresponding to two times the annual fee.

Motion

The shares in Westpay AB (publ) (“Westpay” or the “Company”) are admitted to trading on the Nasdaq First North Growth Market trading venue of Nasdaq Stockholm AB (the “Exchange”) The Company has signed a commitment to comply with the Exchange’s Rulebook for Nasdaq First North Growth Market in force from time to time (the “Rulebook”).

The Exchange has asserted that the Company violated section 4.1 of the Rulebook inasmuch as the Company has failed to publicly disclose inside information in a manner which gave the public fast access to the information and the possibility to make a complete and correct assessment thereof in real-time.

Citing section 6.3 in Supplement B to the Rulebook, the Exchange has moved that the Disciplinary Committee assess the alleged violation of the Rulebook and impose a reasonable sanction.

Westpay has admitted the asserted violation of the Rulebook but has stated that the violation is not so serious that it should lead to the imposition of a fine.

A hearing on the matter took place before the Disciplinary Committee on 7 October 2020, whereupon the Exchange was represented by Andreas Blomquist (Senior Legal Counsel), Elias Skog (Head of Enforcement & Investigations) and Karin Ydén. Westpay was represented by CFO Lars Levin and attorney Björn Kristiansson.

Reasons for the decision

Regelverket

Pursuant to section 4.1 of the Rulebook, an issuer shall disclose inside information in accordance with Article 17 of Regulation (EU) no 596/2014 of the European Parliament and of the Council of 16 April 2014 (“MAR”).

Pursuant to MAR, Article 17, the issuer shall inform the public as soon as possible of inside information that directly concerns the issuer. The inside information shall be made public in a manner which ensures fast access and complete, correct and timely assessment of the information by the public. Pursuant to Article 2 of Commission Implementing Regulation (EU) no 2016/1055 of 29 June 2016 (the “Implementing Regulation”), such disclosure shall take place using technical means that ensure that the information is disseminated to as wide a public as possible on a non-discriminatory basis.

The guidance to section 4.1 of the Rulebook states that the issuer shall ensure that market participants have simultaneous access to the same information.

Considerations

On 19 November 2019, the Exchange was contacted by Westpay’s Certified Adviser (“CA”). CA thereupon informed the Exchange that one of Westpay’s press releases, containing inside information concerning an agreement entered into with Rusta AB, had, in conjunction with its publication on 8 November 2019, mistakenly been distributed to only 110 of the Company’s news subscribers and been published on the Company’s website, and that the Company therefore intended to publish the relevant press release again, in a correct manner. Later the same day, the Company published the relevant press release again, in a correct manner.

The Exchange has asserted: The relevant inside information in the matter was made available on 8 November 2019 to only 110 of the Company’s news subscribers and on the Company’s website. It was not until 11 days later, on 19 November 2019, that the information was disclosed to the rest of the market. The Company has thereby violated Article 17 of MAR by, on 8 November 2019, having failed to disclose the relevant inside information in a manner which gave the public fast access to the information and the possibility for a complete, correct and timely assessment thereof. Consequently, the Company has violated section 4.1 of the Rulebook.

The Company has asserted: The shares in Westpay were admitted to trading on First North in 2007 and, since being listed, the Company has scrupulously complied with the Rulebook and has maintained close contact with its CA, and has received no form of criticism from either Nasdaq or the Swedish Financial Supervisory Authority. It was human error that resulted in the press release of 8 November 2019 not being disclosed in a correct manner, and as soon as the Company realised the error, it contacted the CA, who in turn informed Nasdaq. The press release was distributed again, in a correct manner, on the same day as the error was discovered, namely 19 November 2019. In addition, the Company has reviewed its procedures to ensure that a similar mistake will not occur again. The incorrect publication is thus a one-off occurrence, which the Company views with the utmost seriousness.

The Disciplinary Committee notes that it is common ground that the Company did not disclose the currently relevant information in a correct manner and that the Company thereby violated Article 17(1) of MAR and section 4.1 of the Rulebook. As a consequence of the error, inside information was not available to the public in the correct manner during no fewer than 11 days, which the Disciplinary Committee deems to be serious. The fact that the Company itself realised the error and corrected it is positive, but cannot absolve the Company from liability.

The Disciplinary Committee notes that Westpay violated section 4.1 of the Rulebook. The Disciplinary Committee takes a serious view of the violation and issues a sanction comprising a fine corresponding to two times the annual fee.

On behalf of the Disciplinary Committee

A handwritten signature in blue ink, appearing to read 'Marianne Lundius', is shown within a light gray rectangular box. The signature is cursive and somewhat stylized.

Marianne Lundius

Former Justice Marianne Lundius, director Carl Johan Högbom, attorney Wilhelm Lünig, director Anders Oscarsson and director Joakim Strid.

Secretary: Jur.dr Erik Lidman