Consultation on Nasdaq's Nordic Main Market Rulebook

14 Dec 2022

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How to Respond

We are asking for comments on this Consultation Paper by 27 January 2023.

We would appreciate if you provide your comments using the Template response Document attached hereto as Appendix 1.

You can send your comments to us by email in Swedish or English to ExternalConsultation@nasdaq.com

Further information

A digital meeting will be held on 17 January 2023 at 13.00 CET to explain the content of the Consultation Paper. To register, please email ExternalConsultation@nasdaq.com

1. INTRODUCTION

This paper requests feedback on further changes to continue developing the Nasdaq Stockholm Main Market listing platform.

The areas of consultation covered in this document are:

(i) Potential revision of liquidity requirement on Nasdaq Stockholm to move away from the existing 25% free float threshold, increasing flexibility and predictability while maintaining the underlying requirement of sufficient liquidity;

(ii) Potential broadening the category of legal advisors permitted to perform legal due diligence on companies seeking admission to trading on Nasdaq Stockholm;

(iii) Potential adjustment of the existing requirement for a company to be profitable or alternatively to demonstrate 12 months working capital from first day of trading in their shares, in order to require all companies listing to demonstrate 12 months working capital; and

(iv) A request for views on the content of the Exchange's published guidance on governance and internal control in listed companies.

2. AREAS OF CONSULTATION

2.1 Revision of liquidity requirement (Rule 2.13)

Rule 2.13.1 in the Nordic Main Market Rulebook for Issuers of Shares ("Rulebook") sets out the following:

> *Conditions for sufficient demand and supply ("**Liquidity**") shall exist in order to facilitate a reliable price formation process. Sufficient number of Shares shall be distributed to the public. In addition, the Issuer shall have a sufficient number of shareholders.*

Pursuant to rule 2.13.2 in the Rulebook, the requirement set out in rule 2.13.1 will be presumed to be met in cases where:

a) 25% of the Issuer's Shares within the same class are in Public Hands; and

b) *the Issuer's Shares are held by at least 500 Qualified Shareholders. If, however, the number of Qualified Shareholders is less than 500, but more than 300, the Exchange may consider this requirement satisfied if the Issuer retains the services of a Liquidity Provider.*

According to rule 2.13.3, in cases where the thresholds in 2.13.2 (free float and/or number of Qualified Shareholders) are not met, the Exchange may, upon request, consider that the Liquidity requirement in 2.13.1 is nonetheless met if it is satisfied that the market will operate properly in view of the large number of shares that are distributed to the public.

Nasdaq Stockholm has in recent years received a number of applications for advance rulings in regard to this rule in cases where companies plan to list with a free float under 25%. In the advance ruling cases that have come before Nasdaq Stockholm in this area companies have provided a written explanation for how they will achieve sufficient liquidity under 25% free float, notably based on the value of the free float and comparisons with Average Daily Trading Volume achieved in listings of similar size on other marketplaces. A number of such applications have been approved on the basis of such explanations. Furthermore, Nasdaq Stockholm has been able to confirm after trading has started in these cases that sufficient liquidity has in practice been achieved.

For reference, the lowest value/percentage of free float that has been approved to date in an advance ruling is:

- in value terms, around 200 MEUR, which equated in that case to a free float of just over 20%;
- in percentage terms, 10%, which equated in that case to a free float value of around 1 billion EUR.

It is our view that listing rules in principle should be as prescriptive and foreseeable as possible so that companies can structure their listing processes in an organized way and with a high level of certainty. Case-by-case assessments of requirements like liquidity undermine this aim.

Nasdaq Stockholm has also taken note of the fact that it is relatively common on other European marketplaces for IPOs to take place with initial free float levels under 25%. The London Stock Exchange has recently reduced its free float requirement to 10% (with minimum total market cap £30 million, i.e. minimum free float value of £3 million).[1] In the context of the consultation that led up to this change it was noted that almost one-third of companies listing on the Amsterdam Stock Exchange since 2010 have done so with a free float below 25%.[2] Research commissioned by Nasdaq Stockholm suggests that impact on price stability linked to free float is broadly comparable at levels of free float between 10% and 20%, and

[1] https://www.fca.org.uk/publication/policy/ps21-22.pdf

[2] See above, paragraph 4.8.

that it is only at free float levels above 30% that volatility "outliers" reduce in number. The same research identifies the value of the free float as being of greater importance to liquidity than the percentage of the share capital represented by the free float; for example 25% free float in a company with a market cap of EUR 10 million is only EUR 4 million, while a 10% free float in a company with a market cap of EUR 10 billion is EUR 1 billion.

Based on the above, and in an effort to make the question of liquidity more predictable for companies applying for admission to trading, Nasdaq Stockholm is proposing to change the existing liquidity rule. We invite views on a proposed revised rule in this regard (revised text is underlined to show changes from current rulebook text):

2.13.1. Conditions for sufficient demand and supply ("Liquidity") shall exist in order to facilitate a reliable price formation process. Sufficient number of Shares shall be distributed to the public. In addition, the Issuer shall have a sufficient number of shareholders.

2.13.2. <u>T</u>he requirement set out in 2.13.1 shall be deemed to be met in cases where:

a) 25% of the Issuer's Shares within the same class are in Public Hands; <u>or</u>

<u>b) At least 10% of the Issuer's Shares within the same class are in Public Hands as long as the value of the aforementioned Shares is at least EUR 10 million;</u>

and

c) the Issuer's Shares are held by at least 500 Qualified Shareholders. If, however, the number of Qualified Shareholders is less than 500, but more than 300, the Exchange may consider this requirement satisfied if the Issuer retains the services of a Liquidity Provider.

The above proposals would mean that companies could meet the liquidity requirement at time of admission to trading through either meeting thresholds (a) and (c) combined, or through meeting thresholds (b) and (c) combined.

The new alternative threshold (b) would allow admission to trading at a free float percentage of at least 10% as long as the free float represented a minimum value of EUR 10 million. It would generally not be allowed for companies to list at a free float level below 10%.

Under the proposed revised rule, liquidity would remain, as today, an ongoing listing requirement. Thus, the 10% / EUR 10 million free float threshold, as well as the Qualified Shareholder requirement, would have to be met on an ongoing basis. The Exchange would take action against Issuers if their shares were to drop below either of these thresholds following admission to trading.

The lower free float percentage level of 10% has been chosen as the lowest level that has previously been accepted in an advance ruling in Stockholm. It is also in line with the level the European Commission has recently proposed in the context of the Listing

Act.[3] The proposed minimum value level of EUR 10 million is significantly lower than what has been accepted to date in an advance ruling in Stockholm. However, it is still higher than the lower thresholds of certain international peers, for example London Stock Exchange (£3 million) and Euronext (EUR 5 million). We are setting the minimum level and not a target; we expect that issuers will generally choose to issue more than the minimum permitted level, in particular since issuers will need to consider investor appetite as part of their structuring decisions.

Nasdaq has further performed an analysis of liquidity in companies listed on Nasdaq Stockholm relative to the value and the percentage respectively of their free float. In the analysis, quoted spread has been used as one of the measures of liquidity. The analysis shows that:

- the vast majority of companies having a free float value of 100 m SEK (roughly EUR 10 million) or more have a quote spread below 4% (see Figure 1); and
- almost all companies having a free float of between 10% and 30% have a quote spread below 4% (see Figure 2).

Since a 4% spread is, for example, the minimum standard imposed on a liquidity provider[4], we consider this to be an acceptable level of liquidity. We conclude from this analysis that permitting minimum free float value of EUR 10 million should provide conditions for sufficient liquidity.

[3] https://ec.europa.eu/finance/docs/law/221207-proposal-listing-sme-directive_en.pdf

[4] https://www.nasdaq.com/solutions/liquidity-enhancement

Figure 1: Nasdaq analysis of liquidity in companies listed on Nasdaq Stockholm (free float, value)

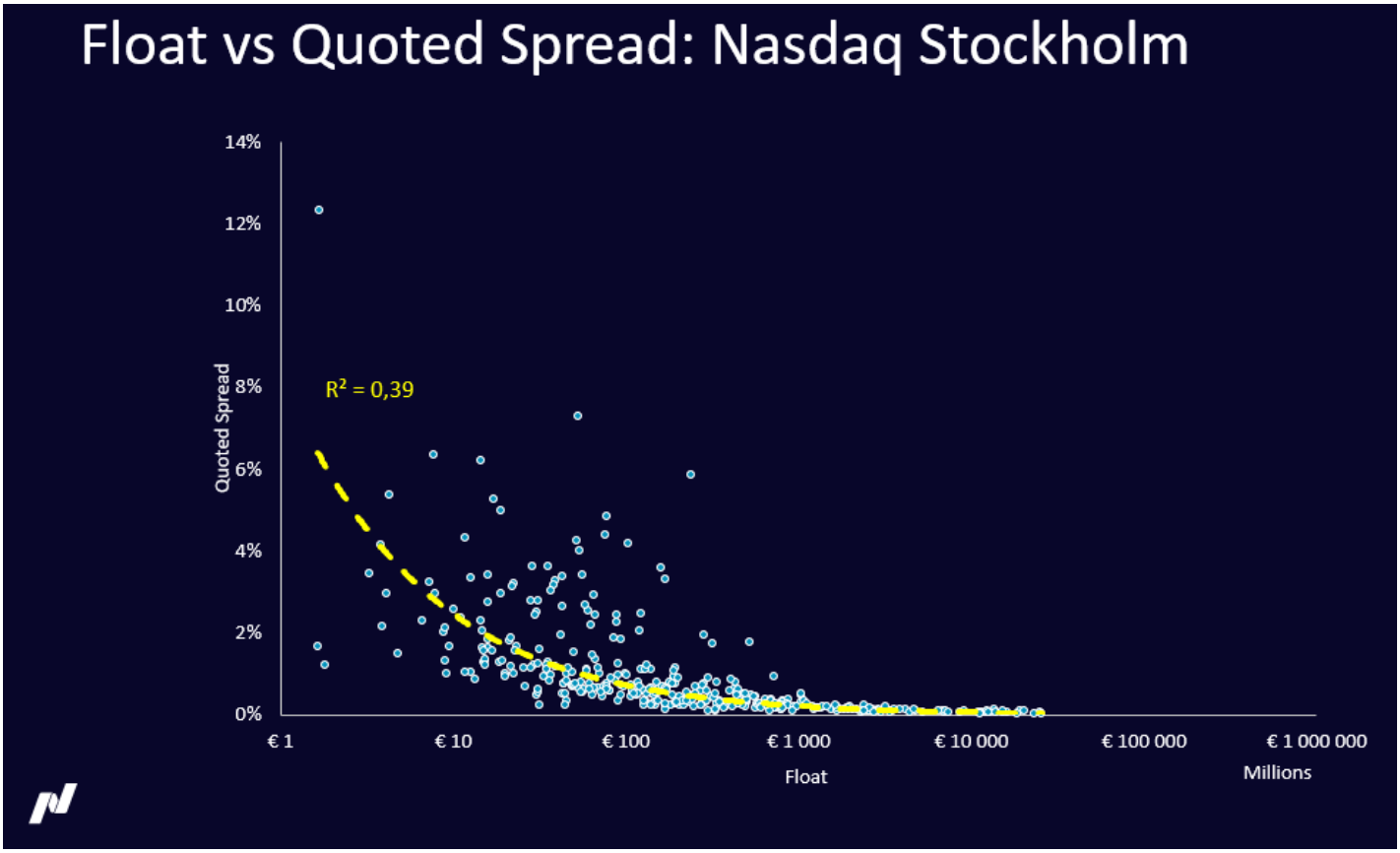
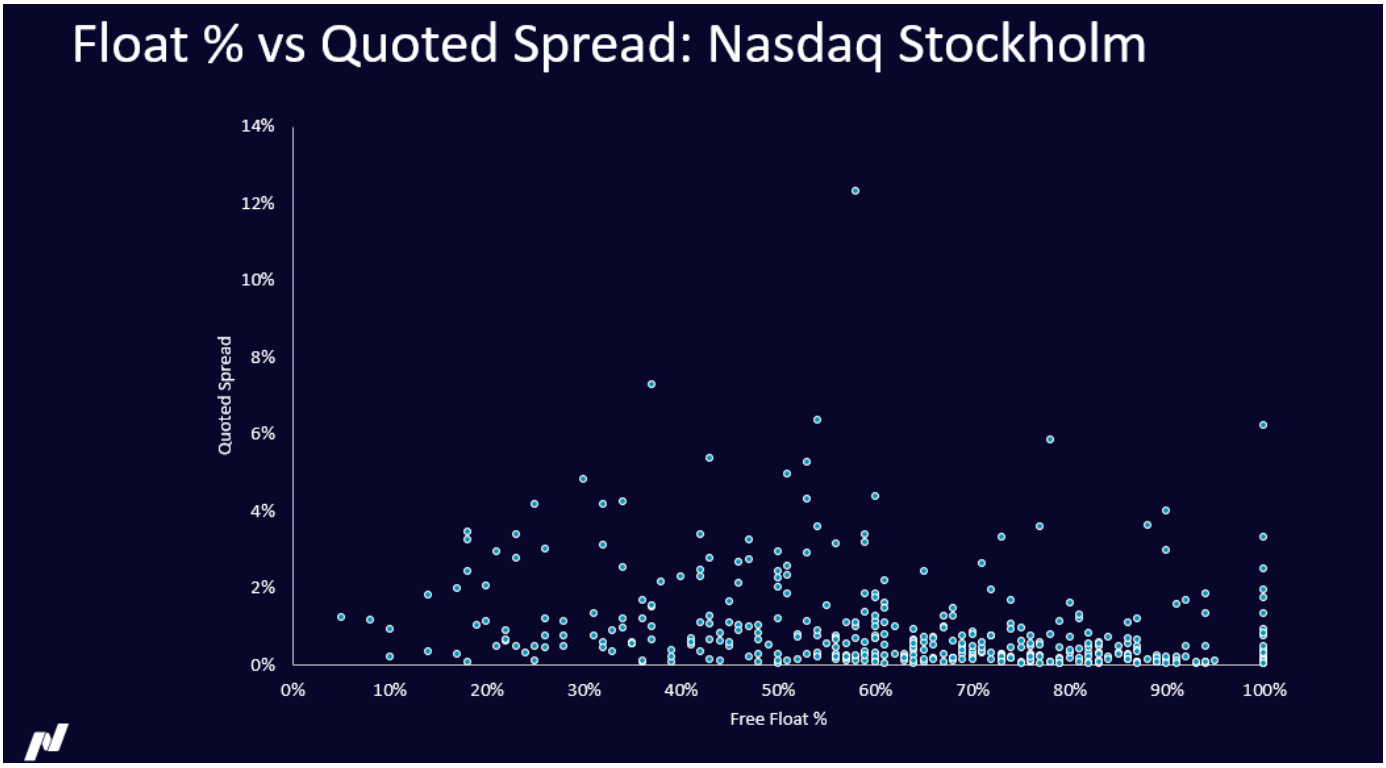


Figure 2: Nasdaq analysis of liquidity in companies listed on Nasdaq Stockholm (free float, %)



We welcome comments on this proposal, notably in terms of whether such a change would increase predictability for companies seeking to list and whether you agree with our analysis of liquidity. Please also feel free to comment if there are factors other than liquidity which you consider could be relevant when considering free float, for example corporate governance, inclusion in indices etc. We note as well that, regardless of how a new rule is defined, we will review liquidity as an ongoing listing requirement. If it were to transpire, based on experience, that a new liquidity threshold had been set too low we would be able to revise this through a future rule change.

2.2 Expanding the category of legal professionals permitted to perform legal due diligence in listings on Nasdaq Stockholm (Supplement D)

According to rule 3.iii-vi in Supplement D of the Rulebook, the following applies in relation to the legal due diligence to be performed in conjunction with admission to trading on Nasdaq Stockholm:

"iii. In conjunction with the Listing Auditor's review, the Issuer shall be subject to a legal examination. The legal examination shall be performed by an attorney[5]*.*

iv. The attorney shall issue a written report from the legal examination. The report shall be supplied to the Listing Auditor and form part of the basis for the Listing Auditor's report.

The scope and structure of the legal examination is regulated in more detail in the Exchange's instruction for the legal examination. The Issuer is responsible for supplying all information the attorney may need for the legal examination."

The rule text is further elaborated upon in the Terms of Reference for Legal Due Diligence, which the Exchange has published on its website, as follows:

"Except for the area related to the Group's tax position, the due diligence shall be carried out by an attorney (Sv. advokat). The due diligence of the Group's tax position shall be conducted by a reviewer with the required expertise in tax law, but not necessarily a lawyer."

Nasdaq Stockholm is considering expanding the scope of legal professionals considered suitable, and therefore permitted, to perform legal due diligence in listings beyond the category of "advokater". This would entail a change in both the rulebook and in the accompanying Terms of Reference. There are several reasons for this proposal:

- While the title of advokat guarantees a certain level of quality and regulation, it does not in itself guarantee any level of knowledge or experience within the domain of capital markets or corporate law. Advokater practice in a wide range of specialist legal areas, many of which have no direct relevance to a due diligence in conjunction with a company's listing.

- On the other hand, there are a number of legal professionals that are not advokater – notably lawyers employed in other consultancy roles, such as accounting firms – who may have specialist competence in the domain of capital markets/corporate law but are not recognised by the current rules as being eligible to perform due diligence.

- The legal due diligence is to be performed objectively, according to the Terms of Reference. An objective due diligence can be achieved without requiring that it be performed by an advokat.

[5] The English term "attorney" has been used by Nasdaq as a translation of the Swedish term "advokat".

- There are a number of foreign issuers that choose to list on Nasdaq Stockholm where legal due diligence should be performed by lawyers in the issuer's home jurisdiction. Even Swedish issuers with foreign activities may need to rely on foreign lawyers to perform parts of their legal due diligence. Advokater are not well placed to perform these reviews and will generally need to bring in specialist local legal competence (i.e. non-advokater)

- Issuers should be free to decide for themselves which lawyers they consider best suited to perform their legal due diligence. This is already the case today for the part of the legal due diligence relating to tax; it would be reasonable to expand this to the entire legal due diligence.

- The requirement that due diligence in connection with admission to trading be performed by an "advokat" is unique to Sweden. It is not required by the other Nasdaq Nordic exchanges that the legal due diligence be performed by an advokat or equivalent. Neither is it required by other exchanges, so far as we are aware. For example:

London Stock Exchange: *"Legal due diligence is conducted by the solicitors[6] and is the process of verifying a company's legal records, material contracts and litigation."*[7]

Hong Kong Exchange*: "To ensure compliance, a new applicant must provide the Exchange with a confirmation from its legal adviser that the new applicant has complied with the Exchange's guidance on redactions in its Application Proof and PHIP and inclusion of appropriate warning and disclaimer statements for publication of any Application Proof, OC Announcement and PHIP."*[8]

Euronext Oslo: *"Due diligence shall be carried out by parties that have appropriate expertise and that are sufficiently independent of the Issuer that is applying for admission to trading."*[9]

[6] Solicitors in the UK can work either in law firms or "in-house", which is different from Swedish advokater.

[7] https://docs.londonstockexchange.com/sites/default/files/documents/guide-main-market-pdf.pdf (s 28)

[8] https://en-rules.hkex.com.hk/sites/default/files/net_file_store/consol_mb.pdf

[9] file:///C:/Users/jonbor/Downloads/Notice%203.4%20-%20Procedures%20for%20admission%20to%20trading%20of%20Shares%20(02%202022%20-%20updated)%20(002)%20(3).pdf

Proposed revised rulebook text:

"iii. In conjunction with the Listing Auditor's review, the Issuer shall be subject to a legal examination. The legal examination shall be performed by ~~an attorney~~ an independent legal advisor in accordance with the Terms of Reference issued by the Exchange.

iv. The ~~attorney~~ independent legal advisor shall issue a written report from the legal examination. The report shall be supplied to the Listing Auditor and form part of the basis for the Listing Auditor's report.

The scope and structure of the legal examination is regulated in more detail in the Exchange's Terms of Reference for Legal Due Diligence. The Issuer is responsible for supplying all information the ~~attorney~~ independent legal advisor may need for the legal examination."

Proposed revised Terms of Reference text:

~~Except for the area related to the Group's tax position,~~ The due diligence shall be carried out by a Legal Counsel that is independent from the Issuer ~~with~~ and has sufficient expertise within the relevant areas of law ~~attorney (Sv. advokat)~~. The due diligence of the Group's tax position shall be conducted by a reviewer with the required expertise in tax law, but not necessarily a lawyer.

Independence, as set out above, ~~The Stock Exchange does not impose any independence requirements on the Legal Counsel, but the Legal Counsel must ensure that the due diligence is carried out objectively. This~~ means that:

– neither the Legal Counsel nor the person assisting the Legal Counsel may examine the documents – except for the corporate formalities prepared in connection with the listing process – that these individuals have helped to prepare. Such an examination may instead be carried out by a colleague of the Legal Counsel who has not been involved in the preparation of the documents, provided the Legal Counsel deems that the due diligence can thereby be carried out objectively and the Listing Auditor does not disagree; and

– the legal and tax due diligences may not be performed by (1) a person who, at any time during the period covered by the due diligence, has been employed by a company of the Group that is subject to the due diligence or (2) a person who, at any time during the period covered by the due diligence, has held, or whose colleague has held, a senior position (such as a member of the Board or management) in a company of the Group that is subject to the due diligence.

Instructions: Issuers are free to decide for themselves which Legal Counsel they consider best suited to perform their legal due diligence. Any circumstances regarding the Legal Counsel's ~~objectivity~~ independence or prior relationships with the Company shall be reported to the Listing Auditor who, in case of doubt, shall consult with the Stock Exchange. If there are questions concerning the sufficiency of the expertise of the Legal Counsel, these can also be consulted with the Stock Exchange.

We welcome comments on this proposal, notably in terms of whether there are benefits of the "advokat" requirement that we have overlooked and whether the proposed revised rule and Terms of Reference texts are clear and understandable.

2.3 Adjusting the existing profitability/working capital requirement (rule 2.9)

Rule 2.9 in the Nordic Main Market Rulebook for Issuers of Shares ("Rulebook") sets out the following:

> *2.9.1. The Issuer shall demonstrate that it possesses documented earnings capacity on a business group level. This means that the Issuer shall be able to document that its business has generated profits during the most recent fiscal year.*
>
> *2.9.2. If the Issuer does not possess documented earnings capacity in accordance with 2.9.1, the Issuer shall demonstrate that it has sufficient working capital available for its planned business for at least twelve (12) months after the first day of trading.*

There have been cases of companies seeking admission to trading where the company is able to demonstrate profitability but where sufficient working capital is not in place for the 12 months following listing. This may be because of the need to put in place new financing or to repay a loan, for example, within the 12 months after planned first day of trading. As the rule is currently formulated, the Exchange must consider rule 2.9 to be fulfilled where a company is profitable, even where it is aware that working capital is lacking for the following 12 months. We believe it is a positive investor safeguard that all companies listing should have in place working capital for the coming 12 months, regardless of whether or not they have generated profits to date. The working capital requirement can be fulfilled through capital raised in the listing, in which case approval would be conditioned upon sufficient capital being raised to cover the company's needs for the following 12 months.

Implementing a requirement for twelve months' working capital to be in place would also be in line with requirements on, for example, the London Stock Exchange[10] and the Hong Kong Exchange[11]. Furthermore, the equivalent rule has recently been implemented on Nasdaq's First North Growth Markets.

Proposed revised rulebook text:

2.9.1. The Issuer shall demonstrate ~~that it possesses documented earnings capacity on a business group level. This means that the Issuer shall be able to document that its business has generated profits during the most recent fiscal year.~~
~~2.9.2. If the Issuer does not possess documented earnings capacity in accordance with 2.9.1, the Issuer shall demonstrate~~ that it has sufficient working capital <u>on a business group level</u> available for its planned business for at least twelve (12) months after the first day of trading.

We welcome comments on this proposal, notably in terms of whether there may be challenges with the revised rule for certain categories of issuers.

[10] https://www.handbook.fca.org.uk/handbook/LR/6/7.html *"An applicant must satisfy the FCA that it and its subsidiary undertakings (if any) have sufficient working capital available for the group's requirements for at least the next 12 months from the date of publication of the prospectus or listing particulars for the shares that are being admitted."*

[11] https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Listing-Rules/Consolidated-PDFs/Main-Board-Listing-Rules/consol_mb.pdf?la=en *"8.21A*

(1)

A new applicant must include a working capital statement in the listing document. In making this statement the new applicant must be satisfied after due and careful enquiry that it and its subsidiary undertakings, if any, have available sufficient working capital for the group's present requirements, that is for at least the next 12 months from the date of publication of the listing document. […]

2.4 Clarifying the scope of review of internal procedures and systems (rule 2.15.3)

Nasdaq strives for its listing requirements to be objectively verifiable and predictable as far as possible, and for the case handler's/decision maker's own views not to affect the direction, scope, requirements or outcome of listing reviews.

With regard to the current listing requirements' provisions on internal governance and control, Nasdaq has received views from some market participants that the rules have grown beyond their original intention and now take a disproportionate amount of focus in listing reviews. Some consider that the requirements, as they have been applied in the reviews in the light of the guidance produced, are not objectively verifiable, predictable and proportionate.

In response, Nasdaq wishes to point out that the area of internal governance and control in general has grown in importance and focus in recent years. This is therefore not merely a Nasdaq phenomenon but part of a global trend. That the boards and management teams of listed companies should pay the necessary attention to internal governance and control and have the necessary knowledge in the field is extremely important from the perspective of maintaining trust in financial markets. It contributes to ensuring proper identification and handling of risks within the company and to ensuring that information of importance to the market is released by the company. Nasdaq therefore has no plans to remove or change its rule in this regard.

As part of its efforts to clarify the review performed in this area, and to harmonise the approach between different Listing Auditors who perform the review, Nasdaq has developed and published Guidance on Governance and Internal Control in Listed Companies (see copy attached as **Appendix 2**).[12] This also explains the standard expected from already listed companies in this regard. The Guidelines cover a broader set of risks (strategic risks, operational risks, compliance risks, financial risks and reporting risks) than just those related to provision of information and financial reporting as explicitly referred to in rule 2.15.3. The guidelines also provide for several layers of review (identification of risks, preparation of internal governing documents, design of key controls, evaluation of these key controls, reporting on outcomes of controls).

Nasdaq is keen to receive views from the market on how this critical area is reviewed as part of the listing process. Comments and suggestions are welcomed on the content of Nasdaq Stockholm's Guidance on Governance and Internal Control in Listed Companies. Please consider in particular if there are parts of the Guidelines that you see as unclear, too far-reaching or insufficiently detailed.

[12] https://www.nasdaq.com/solutions/rules-regulations-stockholm

3. NEXT STEPS

This written consultation, focused on the areas listed above, is open until 27 January 2023. A digital meeting will be held on 17 January 2023 at 13.00 CET during which Nasdaq will explain more about the content of the consultation and participants will have the chance to ask questions.

Written responses will be compiled and used for articulating concrete drafts of adjusted listing rules and procedures. Our conclusions and final proposal will be communicated to respondents and the market through a response document during H1 2023. The potential changes would be implemented during 2023.

Appendix 1: Nasdaq Nordic Listing Process Consultation Response Document

Please provide your comments to the alternatives described herein by filling out the table below.

Responses should be submitted to ExternalConsultation@nasdaq.com by 27 January 2023.

Name of Respondent:	[Name of company and individual providing response]
Would an adjustment of the liquidity thresholds increase predictability for companies seeking to list shares at Nasdaq Stockholm? Do you consider the proposed free float threshold appropriate? If not, why not? Are there other aspects apart from liquidity that you consider relevant in relation to free float?	
Should the current requirement for legal review by an "advokat" be loosened to include potential review by other legal professionals? Why (not)?	
Would it be appropriate, in particular as an investor protection measure, to require all companies listing to have in place 12 months working capital from first day of trading? Are there any types of issuers that would face particular challenges with such a change?	

Please provide comments on the scope and content of Guidance on Governance and Internal Control in Listed Companies.	

Appendix 2: Guidance - Governance and Internal Control in listed companies

1. Background

As stated in section 2.15.3 of Nasdaq Stockholm's regulations for issuers ("the Regulations") an issuer shall have implemented and maintained adequate systems and routines for provision of information prior to the stock exchange listing, including systems and processes for financial reporting. In order to meet these requirements, the issuer must have established proper governance and internal control. Governance and internal control requirements are further stipulated in The Swedish Companies Act (2005:225) (ABL), the Annual Accounts Act (1195:1554) (ÅRL) and the Swedish Code of Corporate Governance (the Code). A company that aims to be listed on Nasdaq Stockholm must therefore organize its governance and internal control in such a way that they comply with the requirements of these regulations.

As part of the listing process an Exchange Auditor appointed by the company evaluates the company's governance and internal control activities and procedures for monitoring, to ascertain compliance with the requirements of the regulations. The engagement for the Exchange Auditor is defined by Nasdaq Stockholm AB ("the Exchange"). The evaluation considers the size, industry, complexity, risk profile and regulatory environment (e.g. for companies under supervision of the Swedish Financial Supervisory Authority) of the company in question.

This guideline has been developed for companies preparing for listing on Nasdaq Stockholm and is intended to act as support in the preparatory work prior to listing. The guideline specifies the activities and processes that shall be established to meet the requirements of the Stock Exchange in the listing review. The activities outlined in sections 5.1-5.7 below are deemed central in the Stock Exchange's assessment of a listed company's governance and internal control and are therefore included in the Exchange Auditor's evaluation.

The requirements on governance and internal control are part of the Nasdaq Regulations and hence applies for the full extent of the time during which a company's shares are listed.

2. What is governance and internal control?

Governance and internal control may be described as a process influenced by the Board, management and other internal stakeholders of a company, designed to provide reasonable assurance that the company is meeting the objectives defined in the following areas:

i. Efficient and effective operations
ii. Reliable reporting
iii. Compliance with applicable laws, regulations and internal policies

Effective governance and internal control comprise a number of components that work together (refer to image below), and is achieved through eliminating, minimizing, monitoring, or ensuring risks pertaining to the company's overall objectives. This requires identification of significant risks, and subsequent design and implementation of internal guidelines that describe the organizations approach to manage these risks. Based on this, effective internal controls are designed and implemented throughout the organizations processes.

The organization shall perform ongoing evaluations of the design and operational effectiveness of governance and internal control, and report to the Audit Committee and Board on risk exposure, compliance with relevant regulations and potential control deficiencies and remediating actions taken.

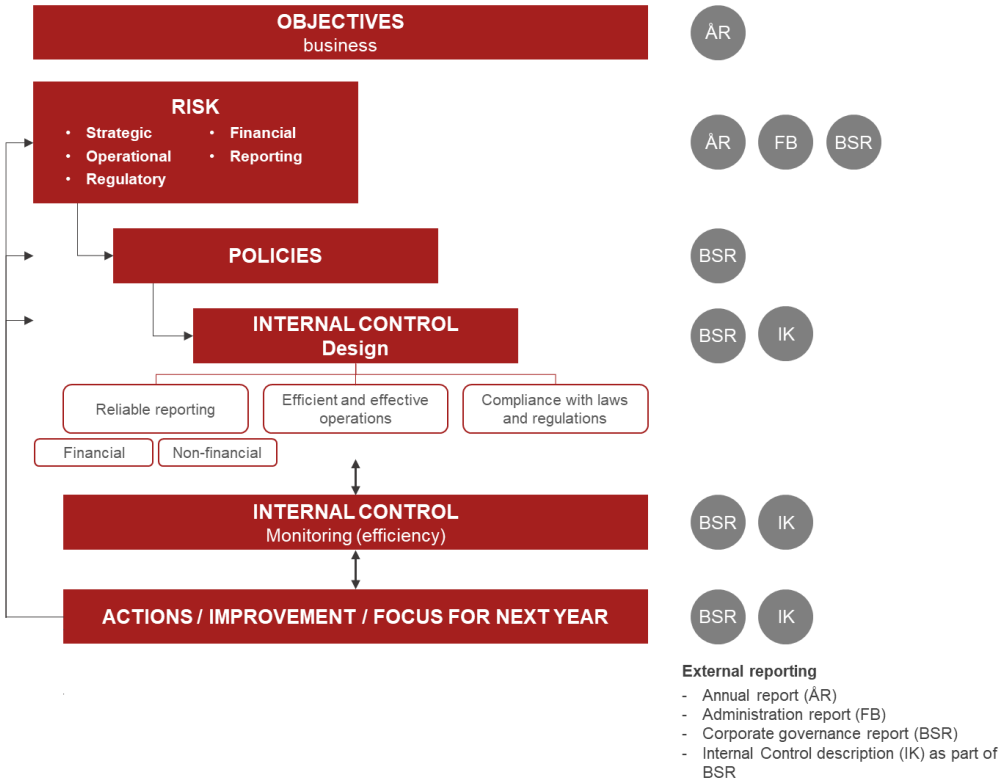


Image 1: Illustrative overview of how the different components (red boxes) of a company's governance and internal control interrelate

3. Where is internal governance and control regulated?

In addition to section 2.15.3 of the Regulations, requirements on governance and internal control in listed companies are stated in ABL, ÅRL and the Code. Below is a brief summary of the requirements;

ABL states that the Board of Directors (the Board) is responsible for the company's overall organization and management, which also includes responsibility for the company's governance and internal control. For companies listed on a regulated market, there are also requirements on the work of the Audit Committee including monitoring the effectiveness of the company's risk management, internal audit, and internal control over financial reporting.

ÅRL provides requirements on external reporting around corporate governance as well as internal governance and control. Furthermore, ÅRL states that a company must provide a sustainability report disclosing information required for understanding the company's development, position and results as well as any consequences of its business and operations. The sustainability report shall comprise a description of the company's business model, its sustainability policy and how this has been implemented, as well as any significant risks pertaining to these matters, including the approach to manage these risks.

The Code describes the duties of the Board, including the Board's responsibility for developing the company's objectives, strategy and guidelines for conduct. The Board is also responsible for ensuring that there are appropriate systems for monitoring and control of the company's operations and its risks. This entails that the Board shall ensure adequate control over the company's compliance with external laws and regulations as well as internal policies. Furthermore, the Code states that the company shall have formalized procedures for financial reporting and internal control, as well as a description of how the Board monitors that the governance and internal control procedures operates properly. The Code also stipulates that the Board is responsible to annually evaluate the need for an independent internal audit function. Finally, the Code also sets requirements for information to be provided in the corporate governance report.

4. Organization of governance and internal control

The Board has the formal responsibility for the company's governance and internal control, and for determining the company's risk appetite. Further, the Board define the requirements on regular reporting (format, content, and frequency) necessary to enable monitoring and current state assessment of the company's governance and internal control.

The Board shall appoint an Audit Committee or – if this is decided by the Company – the Board as a whole shall constitute the Audit Committee. The Audit Committee shall, without limiting the responsibility of the Board, among other things monitor the effectiveness of the internal control related to financial reporting. The CEO is responsible for the day-to-day management of the company and for ensuring adequate organization of the work related to governance and internal control. This includes responsibility for designing the company's governance and internal control procedures and for evaluating whether the system for governance and internal control operates effectively.

To properly manage and monitor business opportunities and risks within the company a clear split of responsibilities is required. The CEO, executive management and the business are all responsible for risk management and for maintaining effective governance and internal control. Functions not responsible for conducting business activities may monitor risk-taking and support the business to ensure compliance with internal and external regulations.

If established, the internal audit function acts on behalf of the Board to evaluate governance and internal control throughout the organization.

The external auditor, appointed by the Annual General Meeting, reviews the company's annual report and financial reporting as well as the management of the company by the Board and the CEO. Thus, external audit is *not* part of the company's organization for governance and internal control.

5. Evaluation of governance and internal control in the listing process

As stated above, a listed company is required to organize its governance and internal control such that that the requirements in the Regulations, ABL, ÅRL, the Code and other applicable regulations are complied with. In assessing the adequacy of a company's governance and internal control the Stock Exchange deems certain components of governance and internal control as pivotal. These are presented in further detail below and are included in the review carried out by the Exchange Auditor. Hence processes must be always implemented and operating in a compliant manner prior to listing and during which the company is listed.

The company's size, industry, complexity, risk landscape and regulatory environment will be considered in the Exchange Auditor's evaluation of the company's governance and internal control.

5.1 Formalization of governance and internal control procedures

A company must formalize its governance and internal control activities through establishment of internal governing documentation that stipulate procedures for carrying out, at a minimum, the processes and activities described in sections 5.2–5.7 below. These governing documents shall also describe roles and responsibilities for each activity and be established at the required level within the company.

Prior to listing, the company must demonstrate compliance with established governing documents by having performed all the activities described in sections 5.2–5.7 below on at least one occasion. This may be performed within the scope of an annual recurring process, or if not yet established, through an accelerated process.

5.2 Identification of significant risks

The company is required to have an organization wide process for risk identification and assessment in place, based on the company's business objectives and performed on at least an annual basis. This should lead to identification and documentation of significant risks within different risk categories such as:

- Strategic risks
- Operational risks
- Compliance risks
- Financial risks
- Reporting risks

Identified risks are documented and broken down to a level that enables the organization to manage the risks through elimination, reduction, monitoring or insurance.

The Board and the Audit Committee shall, at a minimum, annually evaluate the company´s risk analysis/risk assessment.

5.3 Internal governing documents

Based on identified risks, internal governing documents such as policies and guidelines are designed and implemented. These documents shall provide a description of the organization's approach to and management of its risks. In accordance with the Code and other listing requirements, the company is expected to have prepared, established and implemented internal governing documents across areas such as (but not limited to):

- Corporate governance policy
- Finance policy
- Information policy
- Insider policy
- IT policy
- IT and information security policy
- Risk policy
- Sustainability policy
- Policy for transactions with related parties
- HR policy
- Code of Conduct
- Ethical Guidelines
- Finance Manual

5.4 Design of key controls

The company shall have a process in place for determining how risks are to be managed, which is based on identified significant risks and internal governing documents. The process shall lead to design, documentation, and implementation of key controls throughout business processes and IT environments, through which significant risks as identified in step 5.2 above are managed. The question of which business processes that are deemed significant depends on each company´s unique characteristics. Implemented key controls are not limited to processes affecting the process for financial reporting but also for other significant processes such as IT- and information security including crisis- and business continuity plan and compliance with relevant laws and regulations or other processes that are significant for the company. Key controls shall be designed in such a way that the control activity effectively mitigates the risk. The documentation should clearly state how key controls mitigate the identified significant risks.

5.5 Evaluation of the design and effectiveness of the key controls

The company shall have a process in place to evaluate the design and effectiveness of implemented key controls, in order to provide assurance that the governance and internal control system operates effectively. When testing the effectiveness and design of key controls the Company needs to address which individual or function performs the evaluation in order to avoid a situation of self-review. Consequently, it should not be the same individual or function that both performs and evaluates the key control. The process for evaluation shall be documented and ensure that key controls, designed and documented in accordance with section 5.4 above, are evaluated at least annually.

The extent of the evaluation may vary depending on the size, complexity and regulatory environment of the company. An assessment is performed based on the annual risk analysis to decide what components of the internal control should be evaluated, how this is to be performed and with what frequency.

As part of the evaluation of the effectiveness of the internal control, two aspects are taken into consideration:

> **Design**: Adequate controls are implemented and are correctly designed/documented to mitigate significant risks. Furthermore, controls are sufficiently documented with respect to why, how, when and who should perform the control. Documentation structure may vary but would typically constitute instructions, manuals, process descriptions, templates, etc.
>
> **Effectiveness**: Controls are performed in accordance with the design. To conclude on this, sufficient evidence is required to verify that the control has been performed, by whom and when. Structure and form of evidence may vary but must be clear and detailed enough to allow for understanding by a person not responsible for control performance. This person should, based on the evidence, be able to validate that the control was performed according to the design and documentation.

The results of the evaluation shall also be documented, and documentation should be structured so that follow up is made possible.

5.6 Reporting of outcomes and results of evaluation to the Audit Committee and Board

The Board's formal requirements on continuous reporting of the company's governance and internal control shall be clearly described in internal governing documents.

In line with these requirements the business shall report to the Board and Audit Committee on the evaluation of key control design and effectiveness. The business must also describe any implemented and/or planned actions to address and remediate identified observations and deficiencies. Further, an assessment should be made that remaining deficiencies do not constitute an unacceptable risk for errors in the financial reporting nor other unacceptable risk for a company listed on main market. Significant deficiencies need to be remedied before a company will be deemed to meet the requirements on governance and internal control. Should the Audit Committee and Board previously have decided on measures to address and remediate observations and deficiencies pertaining to the company's governance and internal control, the outcome of such measures must also be reported on by the business.

Any discussions or decisions concerning the activities reported by the business shall be clear in the minutes of meeting of the Audit Committee and Board.

5.7 Outsourced activities

The Board is responsible for the company's governance and internal control in its entirety, including any parts of the business outsourced to an external party. Should an outsourced business activity be linked to the company's provision of information, financial reporting, compliance or other areas deemed significant for the company, governing documents must describe how the company ascertains that the external party maintains adequate and effective internal control for the outsourced activities. Requirements on design and evaluation of the internal control system should be agreed in the contract between the parties.

The same requirements on formalization, processes, documentation and evaluation that apply to activities conducted by the business, also apply to any outsourced activities.