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NASDAQ STOCKHOLM'S

DECISION

13 December 2022

DISCIPLINARY COMMITTEE

2022:10

Nasdaq Stockholm

Hedera Group AB

DECISION

The Disciplinary Committee orders Hedera Group AB (publ) to pay a fine to Nasdaq Stockholm corresponding to four times the annual fee.

Motion

The shares in Hedera Group AB (publ) ("Hedera" or the "Company") are admitted for trading on Nasdaq Stockholm's (the "Exchange") Nasdaq First North Growth Market trading platform. Hedera has signed an undertaking to comply with the Exchange's rules for issuers applicable from time to time (the "Rule Book").

The Exchange has argued that Hedera has violated section 4.1 in that it failed to publish inside information in the appropriate manner and with reference to section 6.3 in Supplement B to the Rule Book, the Exchange has moved that the Disciplinary Committee evaluate the violations of the Rule Book and impose a reasonable sanction.

Hedera disputes the violations of the Rule Book alleged by the Exchange.

Neither of the parties has requested an oral hearing. The Disciplinary Committee has reviewed the documents in the matter.

Reasons for the decision

The Rule Book

Pursuant to section 4.1 of the Nasdaq First North Growth Market Rule Book, 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 Article 17 of the MAR, the issuer shall inform the public as soon as possible of inside information which directly concerns that issuer. The issuer must ensure that inside information is made public in a manner which enables fast access and complete, correct, and timely assessment of the information by the public.

Considerations

Background

On 3 December 2021 at 3:50 PM, the Company published a press release with information that the Company had entered into a conditional agreement regarding the acquisition of 53.6 percent of the shares in Liv ihop AB ("Liv ihop") ("Press Release 1"). The terms of the acquisition were described in the press release as follows:

- The agreement is conditional on the conclusion of an arrangement with certain creditors.
- The initial purchase price amounts to SEK 0.45 per share, corresponding to approximately SEK 2 million for all of the main shareholders' shares.
- A supplemental purchase price of SEK 4.55 shall be paid. The total purchase price is therefore SEK 5 per share.
- Following the acquisition of 53.6% of the shares, Hedera will offer other shareholders the opportunity to sell their shares or to receive shares in Hedera Group on the same terms and conditions, through a public offer.
- The deal will be financed by a rights issue and bank loans.

In the press release it was stated that the information in it was such as the Company was required to publish pursuant to the MAR.

After having taken note of the press release, the Exchange requested the Company to publish a supplementary press release to the market regarding the conditions for the supplemental purchase price and the price for the planned tender offer. Later that day, the Company issued a supplemental press release which stated, among other things, the following ("Press Release 2"):

- Liv ihop AB will reach an agreement on the reduction of the restructuring companies' debts to the Swedish Tax Agency, primarily for the amount subject to the corona deferral.
- Liv ihop AB will reach an agreement with the existing bank regarding refinancing.
- If these conditions are not met, the purchase will not be completed by Hedera Group AB.

In the press release it was stated that the information in it was such as the Company was required to publish pursuant to the MAR.

After having taken note of Press Release 2, the Exchange requested the Company to further clarify the conditions for the supplemental purchase price as well as the price for the planned tender offer. On 8 December 2021, the Company issued a further supplemental press release which stated, among other things, that ("Press Release 3"):

- Performance of the agreement is conditional on the Swedish Tax Agency's approval of a tax composition which would substantially reduce the restructuring companies' debts to the Swedish Tax Agency. Upon performance of the agreement, the initial purchase price of SEK 0.45 per share shall be paid.
- Upon fulfilment of the above requirements, Hedera shall, pursuant to the agreement and in accordance with the Swedish Corporate Governance Board's takeover rules for certain trading platforms, make a mandatory bid of SEK 5 per share to the other shareholders.
- Upon expiry of the acceptance period for the mandatory bid, Hedera Group shall pay an additional SEK 4.55 per share as a supplemental purchase price.
- A transfer of the shares will include an arrangement with the existing bank regarding the refinancing of Liv ihop AB. However, an arrangement with the existing bank is not a condition for the performance of the agreement.

In the press release it was stated that the information in it was such as the Company was required to publish pursuant to the MAR.

The Exchange has argued: Press Release 1, concerning the conditions for the Company's acquisition of 53.6 percent of the shares in Liv ihop contained, in short, only information that the acquisition was "conditional on the completion of an arrangement with certain creditors". The disclosure thus did not contain any information that an arrangement would, in fact, need to be reached with one creditor and that this was the Swedish Tax Agency, nor that the arrangement with the authority would need to be reached by a third party, i.e. Liv ihop, and thus was beyond the Company's control. Furthermore, it is noted that the purchase price for the acquisition was divided into two parts - an initial purchase price and a supplemental purchase price - but that Press Release 1 did not contain any explanation as to the conditions under which the additional purchase price would be paid. In that context it is noted that the only condition for the supplemental purchase price was that the Company itself, and in accordance with a commitment in the purchase and sale agreement, would first make a public tender offer to the other shareholders of Liv ihop. Thus, there were no actual external conditions for the supplemental purchase price, which could hardly be regarded as such in the true sense of the term. Due to the lack of clarity regarding the supplemental purchase price, it was also not clear from the press release what price the Company intended to offer in the planned public tender offer. In light of the above, it is the Exchange's assessment that the Company's disclosure on the afternoon of 3 December 2021 did not allow for a complete and correct assessment of the share acquisition in the manner prescribed by Article 17 of the MAR. Thus, the Company also violated section 4.1 of the Rule Book. With regard to Press Release 2, the Exchange notes that this, which was intended to clarify the terms and conditions of the purchase and sale agreement, contained additional information that "Liv ihop AB shall reach an agreement with the existing bank regarding refinancing". As such, an agreement was, in fact, not a condition of the purchase and sale agreement, the Exchange considers that the disclosure in this respect was misleading and violated Article 17 of the MAR. Thus, through this disclosure the Company also violated section 4.1 of the Rule Book.

The Company has argued: The significant information for investors in Press Release 1 was the fact that the acquisition of the majority stake in Liv ihop was conditional, which was

clearly stated in the press release. In the Company's opinion, the fact that an arrangement needed to be reached with the Swedish Tax Agency as creditor should have been of minor importance in this context. Press Release 1 also contained information that the purchase price for the shares in Liv ihop would be paid with SEK 0.45 as the initial price and SEK 4.55 as a supplemental purchase price. The reason why the Company did not explain the conditions for the payment of the supplemental purchase price was that the terms of the purchase and sale agreement only stated that it would be paid upon expiry of the acceptance period of planned tender offer. As the Company was obliged to make such a bid under the mandatory bidding rules, there was no factor of uncertainty or additional circumstance affecting whether or not a supplemental purchase price would be paid. The information in Press Release 1 was therefore correct and complete. With regard to the information regarding the consideration in the planned tender offer, Press Release 1 stated that the offer would be made "on the same terms and conditions", which was only intended to convey that other shareholders of Liv ihop would be offered financial terms and conditions equivalent to the purchase price per share in the Company's acquisition of a majority stake in the Company, i.e. SEK 5.

Regarding Press Release 2, this contained information that as part of the acquisition, Liv ihop would reach an arrangement with the existing bank regarding refinancing. However, such an arrangement was not an express condition of the purchase and sale agreement. An arrangement with the bank was an important issue for continued operation of Liv ihop and for bringing about an arrangement with the Swedish Tax Agency. Reaching an arrangement with the bank was thus indirectly a condition for the Company's acquisition of a majority stake in Liv ihop, even though the acquisition was not explicitly conditional on such an arrangement. The Company agrees that the information in Press Release 2 could have been clearer but believes that the potential damage from this lack of clarity can be deemed to have been limited.

The *Disciplinary Board* notes that in all of the press releases in question, the Company indicated that the information constituted information that the Company was obliged to disclose under the MAR, i.e. inside information. The Company's corrective press releases have referred to information regarding the purchase price and conditions for completion that were beyond the Company's control. There is no reason to assume anything other than that this information constituted essential information in the context. According to its practice, the Disciplinary Board also starts from an issuer's assessment that certain information has constituted inside information. The Company has thus published two corrective press releases after Press Release 1, both of which contained inside information on the acquisition of Liv ihop. Neither Press Release 1 nor 2 has thus entailed that insider information about the acquisition has been published in a manner which enables complete, correct, and timely assessment of the information by the public. Accordingly, neither Press Release 1 nor 2 were disclosed in accordance with Article 17 of the MAR, and the Company thus violated section 4.1 of the Rule Book.

The Disciplinary Committee finds that the Company has violated Article 17 of the MAR and thus section 4.1 of the Rule Book. The Disciplinary Committee holds that the violations are serious, and therefore a fine shall be imposed as a sanction. The Disciplinary Committee sets the fine at four times the annual fee.

On behalf of the Disciplinary Committee,

A handwritten signature in blue ink, appearing to read 'Marianne Lundius', with a stylized flourish at the end.

Marianne Lundius

Former Justice Marianne Lundius, Justice Johan Danelius, former authorized public accountant Svante Forsberg, company director Carl Johan Högbom, and *Advokat* Patrik Marcellus participated in the Committee's decision.

Secretary: Associate Professor Erik Lidman