



# Decisions and Statements 2023

Nasdaq Copenhagen

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# Nasdaq Copenhagen Main Market

## 1.1 Sanctions

### 1.1.1 Shares

#### 1.1.1.1 Reprimand and fine for violations of disclosure requirements and requirements for being admitted to trading (14<sup>th</sup> April 2023)

*(ChemoMetec A/S)*

The case concerns

1. Sharing of information with a bank
2. Disclosure of annual report
3. Complying conditions for being admitted to trading in relation to internal procedures etc.

Lastly, the reasoning behind the decision of sanction by Nasdaq Copenhagens Disciplinaty Committee (Disciplinary Committee) will be described.

#### 1. Sharing of information with a bank

On the 14th September 2022 at 13.52, Chemometec A/S (the company) disclosed company announcement number 228 with the heading "Forventninger til regnskabsåret 2022/23". The announcement was disclosed in the category "Inside information". In the announcement it was stated that information about the company's financial expectations for the financial year 2022/23 had been shared with a group of clients in a bank who was to host an investor meeting a couple of days after the planned disclosure of the company's annual report.

In accordance with rule 3.1.1 in Nordic Main Market Rulebook for Issuers of Shares (Nasdaq's rules) an issuer shall disclose inside information in accordance with article 17 in the Market Abuse Regulation. This means that inside information shall be disclosed as soon as possible, and the issuer shall ensure that the inside information is made public in a manner which enables complete, correct, and timely assessment of the inside information by the public.

Further, the disclosure shall be in accordance with article 2(1)(a) in the Commission Implementing Regulation no. 2016/1055 according to which issuers shall disclose inside information using technical means that ensure inside information is disseminated to as wide a public as possible on a non-discriminatory basis, free of charge and simultaneously throughout the Union.

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the company to explain the course of events where the information was sent to the bank and was forwarded by the bank to the registered participants at the investor meeting.

The company explained that the financial expectations were sent to the bank as a part of a powerpoint presentation in the morning of the 14th September 2022 at about 8.30. This was due to a mistake as the company's CEO was not aware that the expectations had not been made public prior to that.

The company informed that the financial expectations had been forwarded via the bank to the registered participants on the 14th September 2022 at 11.45. The company explained that the company's CEO was made aware that the financial expectations had been shared by the bank to the mentioned participants because the bank contacted the company's CEO the same day shortly after 12. At about 12.20 the bank had sent an e-mail to the participants informing them that the forwarded information included confidential information and that they were considered to be insiders.

The company explained that the financial expectations, at the time they were sent to bank at 8.30, did not constitute inside information because they had not been discussed nor presented to the company's board of directors. The financial expectations had not been presented to the company's board of directors until the company's board meeting from 14-18 on the 14th September 2022. The company noticed that nothing indicated that the company's financial expectations constituted inside information as the disclosure of the financial expectations in company announcement number 228 did not give any immediate market reaction and that there were only minor changes in the share price.

In accordance with the company's board minutes, the company had handled the shared information as a leakage of inside information when company announcement number 228 should be disclosed at 13.52 which was prior to the board meeting started at 14.00.

## 2. Disclosure of the annual report

The company disclosed the annual report for 2022/23 on the 15th September 2022 at 8.30.00 corresponding to the date announced in the company's financial calendar.

In accordance with Supplement A, part C, rule 13 and rule 16 in Nasdaq's rules an issuer shall disclose an annual report. The annual report shall be disclosed as soon as possible and no later than 4 months after the end of the financial year. As soon as possible shall, in accordance with Nasdaq's practice, be understood as immediately after the company's board of directors, and the auditor, has discussed and approved the annual report.

Due to this, Surveillance requested the company to explain the events around the disclosure.

According to the board minutes, the company's annual report had been pre-approved at the Board meeting on the 14th September 2022 from 14-18. According to the board minutes, the approval was

conditioned upon no further comments or remarks before the planned disclosure of the annual report on the 15th September 2022 at 8.30. In relation to this, it was mentioned that it would be unfortunate, if any further comments or remarks would be made as it would mean that the disclosure had to be postponed compared to the company's financial calendar.

The company also explained that the company's annual report had been submitted into the distribution system in the evening on the same day the board meeting had been held. The disclosure of the company announcement had been initiated on the 15th September 2022 at 8.18 for disclosure at 8.30.00

### 3. Conditions for admittance to trading on adequate procedures, controls, and systems to provide information to the market

In accordance to rule 2.15.2(a) in Nasdaq's rules the members of the Board of Directors and the Senior Management shall know the way the company has structured, amongst other, its investor relations and its procedures for disclosing information to the market.

In accordance to rule 2.15.3(a) in Nasdaq's rules an issuer shall have in place adequate procedures, controls and systems, including systems and procedures for financial reporting, to enable compliance with its obligation to provide the market with timely, reliable, accurate and up-to-date information.

In accordance to rule 2.15.3(b) in Nasdaq's rules the Issuer shall have in place an information policy to enable compliance with its obligation to provide the market with timely, reliable, accurate and up-to-date information. The information policy shall be formulated in such a manner that compliance with it is not dependent on a single person, and it shall also be designed to fit the circumstances pertaining to the specific issuer. The information provided to the market shall be correct, relevant, and reliable and shall be provided in accordance with chapter 3 of Nasdaq's rules.

On the 13th July 2022 the company had disclosed an announcement with the headline "Omtale af vide-regivelse af intern viden". The announcement stated that the media had referred to a conviction on unlawful disclosure of inside information about the company. The information had been unlawfully disclosed from a closely related party to the company's CEO to a third party.

Due to the sharing of non-disclosed information to the bank and the late disclosure of the annual report, and the mentioned conviction on unlawful disclosure of inside information, Surveillance requested the company to explain the company's information policies for the compliance of the disclosure obligations, including the company's handling of information that constitutes inside information.

The company explained that it was the company's belief that its procedures, as expressed in the information policies, was adequate and that the unlawful disclosure of inside information more likely had happened due to personal matters instead of as a consequence of inadequate procedures and/or policies that could be a violation of the rules in Nasdaq's rules.

## The Disciplinary Committee's remarks and decision

### *About item 1: Sharing of information to a bank*

The Disciplinary Committee included in the assessment that the information about the financial expectations had already been assessed to be precise enough to include them in a presentation which was sent to the bank at around 8.30, that the company had handled the information as inside information and that the receivers of the information had been told that they "were to be considered as insiders" around 12, when they became aware that the financial expectations had been sent. The Disciplinary Committee also noted that the company's "leakage announcement" had been disclosed and categorized as inside information.

Based on that, the Disciplinary Committee assessed that the company's financial expectations for the financial year 2022/23 constituted inside information and that information constituted inside information no later than the time where the information had been sent to the bank. The company had as such sent information that constituted inside information to the bank in which the disclosure had not ensured the inside information to be disseminated to as wide a public as possible on a non-discriminatory basis, free of charge and simultaneously throughout the Union.

The Disciplinary Committee assessed that the company had violated rule 3.1.1 in Nasdaq's rules, cf. article 17 in the Market Abuse Regulation and article 2(1)(a) in the Commission Implementing Regulation no. 2016/1055.

### *About item 2: Disclosure of the annual report*

The Disciplinary Committee had assessed that the Board of Directors had discussed the annual report at the Board meeting on the 14th September 2022 and that the Board had "preapproved" the report in which remarks could be made until the planned disclosure the following morning but at the same time it was mentioned that further remarks would delay the time of disclosure which would be unfortunate. The Disciplinary Committee also took note of that the annual report was submitted for disclosure in the distribution system in the evening of the 14th September 2022 and that the disclosure of the annual report was initiated at 8.18 on 15th September 2022 for disclosure at precisely 8.30.00 as planned.

The Disciplinary Committee noted that a conditional approval or pre-approval may be accepted if it at the board meeting becomes clear that changes or similar has to be done to the report or specific information that is discussed has to be re-assessed or is expected to be changed with the acceptance of the company's auditor.



The Disciplinary Committee noted that a pre-approval or a conditional approval will have to mean that a formal, final approval has to take place when it has been concluded that the conditions has been met prior to the disclosure of the report. The Disciplinary Committee noted that it is not generally acceptable to wait with the disclosure until the date and time set forth in the financial calendar.

The Disciplinary Committee also noted that the disclosure of the company's annual report shall be disclosed as soon as possible, and this shall, in relation to Nasdaq's rules, be done in the same manner as inside information shall be disclosed as soon as possible.

The Disciplinary Committee assessed that the annual report had to be considered as approved on the 14th September 2022 at the board meeting. Hence the report should have been disclosed as soon as possible hereafter. It was not acceptable to wait with the disclosure after what was stated in the financial calendar. The Disciplinary Committee assessed that the disclosure on the 15th September 2022 at 08.30.00 was not to be seen as "as soon as possible". Hence the company had violated Supplement A, part C, rule 16, cf. rule 3.2.2, cf. rule 3.2.1, cf. rule 3.1.1 in Nasdaq's rules.

#### *About point 3: Adequate procedures, controls, and systems to provide information to the market*

The rules in 2.15 describes some of the conditions for being admitted to trading. The conditions relate to the process of being admitted to trading and also continuously during the admission to trading.

As a main rule, single violations of the disclosure obligations will not lead to an assumption that the company has violated, as an example, the conditions in rule 2.15. It could, however, be included in an assessment if the company has violated the rules on multiple occasions or if a serious breach has been made.

In this case the different incidents did lead to the assessment that the company and its management had not complied with some of the conditions for being admitted to trading.

The Disciplinary Committee had already assessed that the company had violated the rules when sharing of information to the bank and that it had, amongst other, happened because the company had not been aware if the information constituted inside information or if the information had been disclosed earlier.

The Disciplinary Committee had also assessed that the company had violated the rules about annual reports shall be disclosed as soon as possible after the approval.

In relation to the information the Disciplinary Committee had available about the conviction of the closely related party to the company's CEO, for unlawful disclosure of inside information, The Disciplinary Committee assessed that the company's understanding of and compliance with the information policies and procedures had proven not to be sufficient to secure a correct handling in that sense.

The Disciplinary Committee noted that the company's management had not shown a sufficient understanding for the company's own procedures for handling of the disclosure obligations nor the conditions in Nasdaq's rules.

Due to this, the Disciplinary Committee assessed that the company had not complied with rule 2.15.2(a) and rule 2.15.3(a) and (b).

### Decision

The Disciplinary Committee decided to reprimand the company's violations of

- Rule 3.1.1, cf. article 17 in the Market Abuse Regulation and article 2(1)(a) in the Commission Implementing Regulation no. 2016/1055 (sharing of information with the bank)
- Supplement A, part C, rule 16, cf. rule 3.2.2, cf. rule 3.2.1, cf. rule 3.1.1 (disclosure of annual report), and
- rule 2.15.2(a) and rule 2.15.3(a) (Fulfillment of conditions for admittance to trading in relation to internal procedures etc.)

The Disciplinary Committee particularly considered the violation that occurred when the information was sent to the bank as serious and with the late disclosure of the annual report and because the company had shown a fundamental lack of practical understanding for handling inside information and the disclosure obligations, the Disciplinary Committee found that the company should also pay a fine equal to one (1) annual fee paid by the company to Nasdaq.

The paid fine will be transferred to Nasdaq Nordic Foundation for the promotion of the Foundation's objectives<sup>1</sup>.

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<sup>1</sup> <https://www.nasdaq.com/nasdaq-nordic-foundation>

### **1.1.1.2 Late disclosure of change of CFO (14<sup>th</sup> April 2023)**

*(HusCompagniet A/S)*

On the 10th January 2023 at 12.33 HusCompagniet A/S (the company) disclosed investor news in which it was informed that the company had hired a new CFO.

Nasdaq Copenhagen Surveillance (Surveillance) contacted the company later that same day and requested the company to disclose the information again as a company announcement as the information about the new CFO was covered by a disclosure obligation.

Later that same day at 15.49 the company disclosed a company announcement containing information about the new CFO.

In accordance with rule 3.5.1 in Nordic Main Market Rulebook for Issuers of Shares (Nasdaq's rules), a company shall disclose changes to the senior management. This includes, amongst other, changes of a CFO.

Information to be disclosed in accordance to rule 3.5, shall be disclosed in the same manner as information to be disclosed in accordance with rule 3.1, cf. rule 3.2.1. In accordance with rule 3.1 a company shall disclose inside information in accordance with article 17 in the Market Abuse Regulation (MAR).

The rule in article 17 of MAR is supported by the Commission Implementing Regulation no. 2016/1055 laying down implementing technical standards with regard to the technical means for appropriate public disclosure of inside information and for delaying the public disclosure of inside information (implementing regulation).

In article 2(1)(a) of the implementing regulation it is stated that issuers shall disclose inside information using technical means that ensure that inside information is disseminated to as wide a public as possible on a non-discriminatory basis, free of charge and simultaneously throughout the Union.

This means that changes to the senior management shall be disclosed as soon as possible and in a way that ensure the information is disseminated to as wide a public as possible on a non-discriminatory basis and simultaneously.

Due to this, Surveillance requested the company to explain why the company had disclosed the information about the hiring of a new CFO as investor news and not as a company announcement.

The company explained that the error was due to a lack of understanding for the technical functions in the distribution system which was caused by changes in the company's organization.

As the information about the hiring of a new CFO was published as investor news and not disclosed as a company announcement, Surveillance assessed that the company had not disclosed the changes to the senior management in a correct way and as such Surveillance presented the case to Nasdaq Copenhagen's Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the company had not secured, that the information was disclosed in a way that enabled fast access and complete correct and timely assessment of the information by the public and disseminated to as wide a public as possible on a non-discriminatory basis. The company had violated rule 3.5.1 in Nasdaq's rules.

The Disciplinary Committee decided to reprimand the company.

### **1.1.1.3 Late disclosure of resolutions adopted at the general meeting (27 June 2023)**

*(Anonymous)*

A company disclosed an announcement about resolutions adopted at the annual general meeting. In the announcement it was stated that the annual general meeting had been held four days prior to the disclosure of the announcement to the market.

In accordance with rule 3.4.2 in Nasdaq Nordic Main Market Rulebook (Nasdaq's rules), a company shall disclose an announcement about resolutions adopted at the general meeting. In accordance with rule 3.2.1 in Nasdaq's rules information to be disclosed in accordance with rule 3.4.2 shall be disclosed in the same manner as information to be disclosed in accordance with rule 3.1. Rule 3.1 in Nasdaq's rules states that inside information shall be disclosed in accordance with article 17 of the Market Abuse Regulation. This means that a company shall disclose an announcement about the resolutions adopted at the general meeting as soon as possible after the general meeting has been held.

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the company to explain why the announcement with the resolutions from the general meeting was disclosed four days after the general meeting was held. The company explained that the announcement had been delayed due to a misunderstanding within the company.

Based on the explanation from the company Surveillance assessed that the company had violated rule 3.4.2, jf. 3.2.1 in Nasdaq's rules and decided to present the case to Nasdaq Copenhagen Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the company had not disclosed the announcement about the resolutions adopted at the general meeting, as soon as possible after the general meeting had been held

since the announcement was disclosed four days after the company held its general meeting . As such, the company had violated the requirement in rule 3.4.2, jf. 3.2.1 in Nasdaq's rules.

The Disciplinary Committee decided to reprimand the company.

#### **1.1.1.4 Late disclosure of changes in the board of directors (13 December 2023)**

*(Lollands Bank)*

The company disclosed a company announcement about changes in the board of directors. The announcement informed that the day before the disclosure of the announcement a meeting of the shareholders representatives had been held in which election of members to the board was on the agenda. At the meeting of the shareholders representatives, a new member of the board was elected. After the meeting of the shareholders representatives, a board meeting was held in which a new chairman of the board was chosen. This means, the company disclosed a company announcement about changes in the board of directors the day after a new board member had been elected and a new chairman had been chosen.

According to rule 3.5.2 in Nordic Main Market Rulebook for Issuers of Shares (Nasdaq's rules), a company shall disclose changes in the board of directors. In accordance with rule 3.2.1 in Nasdaq's rules, information to be disclosed in accordance with rule 3.5.2 shall be disclosed in the same manner as information to be disclosed in accordance with rule 3.1. This means that a company shall disclose changes in the board of directors as soon as possible.

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the company to explain why the announcement about changes in the board of directors had been disclosed the day after a new board member had been elected and a new chairman had been chosen. The company explained that a mistake had been caused by the procedure for disclosing announcements to the market which was why the company announcement was not disclosed until the day after.

Based on the explanation from the company Surveillance assessed that the company had violated rule 3.5.2, cf. rule 3.2.1 in Nasdaq's rules and decided to present the case to Nasdaq Copenhagen Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the company had not disclosed an announcement about changes in the board of directors as soon as possible, as the company disclosed the announcement the day after the new member of the board had been elected and the new chairman had been chosen. As such, the company had violated the requirement in rule 3.5.2, cf. 3.2.1 in Nasdaq's rules.

The Disciplinary Committee decided to reprimand the company.

## **1.1.2 Investment funds**

### **1.1.2.1 Late disclosure of resolutions adopted at the general meeting (27 June 2023)**

*(Anonymous)*

Some issuers of UCITS-shares disclosed the resolutions from the general meeting the day after the issuers' general meetings had been held.

In accordance with rule 4.2.6 in Rules for issuers of UCITS-shares (Nasdaq's rules), an issuer shall disclose the resolutions adopted at the general meeting. The guidance text explains that the announcement shall be disclosed as soon as possible after the general meeting has been held.

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the issuers' to explain why the disclosure took place the day after the general meetings were held. The issuers explained that the delayed disclosure was due to miscommunication within the issuers management company.

Based on the explanation from the issuers Surveillance assessed that the issuers had violated rule 4.2.6 in Nasdaq's rules and decided to present the case to Nasdaq Copenhagen Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the issuers had not disclosed the resolutions from the general meeting as soon as possible after the general meeting had been held since the disclosure took place the day after the issuers' general meeting had been held. As such, the issuers had violated the requirement in rule 4.2.6 in Nasdaq rules.

The Disciplinary Committee decided to reprimand the issuers.

### **1.1.2.2 Late disclosure of half-year report**

*(The UCITS share issuer Maj Invest)*

The UCITS share issuer Maj Invest (issuer) published an announcement on 30 August 2023, in which the issuer's half-year report for H1 2023 was attached. It appeared from the announcement and the report itself that the issuer's board and management had approved the report on 29 August 2023.

On 30 August 2023, Nasdaq Copenhagen Surveillance (Surveillance) contacted the issuer and requested an explanation of why the report was published the day after its approval.

The issuer explained, among other things, that due to an error, it had failed to publish the half-year report on 29 August 2023, which is why this only happened on 30 August 2023.

From rule 4.2.11 of the Rules for issuers of UCITS shares (Nasdaq's rules), it follows that an issuer must publish an interim report for the first six months of each financial year. The interim report must be published immediately after the board meeting, where it is approved.

Surveillance assessed that the issuer could have violated the requirement in rule 4.2.11 of Nasdaq's rules since the issuer had not published the half-yearly report as soon as possible after the board meeting, where it was approved, and presented the case to the Disciplinary Committee.

The Disciplinary Committee found that the issuer had violated rule 4.2.11 of Nasdaq's rules by disclosing the half-year report on 30 August 2023 and decided to reprimand the matter for the issuer.

### **1.1.2.3 Non-disclosure of notice to convene extraordinary general meeting and resolutions adopted at the extraordinary general meeting (13 December 2023)**

*(Investeringsforeningen Investin)*

The issuer disclosed a company announcement about a notice to convene an extraordinary general meeting. The extraordinary general meeting was to be held 3 days later. Attached in the announcement, the agenda was dated 13 days prior the disclosure of the announcement to the market.

The Issuer disclosed a company announcement about the resolutions adopted at the extraordinary general meeting the day after the extraordinary general meeting had been held.

In accordance with rule 4.2.6 in Rules for issuers of UCITS-shares Nasdaq Copenhagen (Nasdaq's rules), an issuer shall disclose a notice to convene a general meeting. The notice shall be disclosed before the notice is available on the issuers website. According to rule 4.2.6 in Nasdaq's rules, an issuer shall disclose



a company announcement about resolutions adopted at the general meeting. It is stated in the text to the rule that the announcement shall be disclosed as soon as possible after the general meeting has been held. This requirement applies notwithstanding that, such resolutions are in accordance with previously disclosed proposals. According to rule 4.2 in Nasdaq's rules, information to be disclosed in accordance with rule 4.2 shall be disclosed in the same manner as information to be disclosed in accordance with rule 2.1.5. In accordance with rule 2.1.5 in Nasdaq's rules, information to be disclosed based on Nasdaq's rules, must be disclosed in such a way that the information quickly becomes available in a non-discriminating way. This is secured by the disclosure of a company announcement.

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the issuer to explain why the notice to convene an extraordinary general meeting had been disclosed 13 days after the agenda had been dated in the document attached to the company announcement. Surveillance requested the issuer to explain why the issuer had disclosed a company announcement about the resolutions adopted at the extraordinary general meeting the day after the extraordinary general meeting had been held. The issuer explained that the notice had been sent by letter and e-mail, and made available on the issuer's website, on the day the agenda was dated as stated in the document attached in the company announcement. This means 13 days before the disclosure of the company announcement was disclosed to the market. This happened because a company announcement had not been registered for disclosure in the system used by the issuer to disclose company announcements to the market. When the issuer became aware, the issuer disclosed a company announcement to the market right away.

The resolutions adopted at the extraordinary general meeting had been made available on the issuer's website after the extraordinary general meeting, but a company announcement had not been disclosed until the day after the extraordinary general meeting had been held. This happened because of challenges in the it-system which meant that the issuer forgot that a company announcement had not been registered for disclosure in the system used by the issuer to disclose company announcements to the market. When the issuer became aware, the issuer disclosed a company announcement to the market right away.

Based on the explanation from the issuer Surveillance assessed that the issuer had violated rule 4.2.6, cf. rule 2.1.5 in Nasdaq's rules and decided to present the case to Nasdaq Copenhagen Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the issuer had not disclosed a company announcement about a notice to convene to an extraordinary general meeting no later than the notice was sent by letter and e-



mail, and before the notice was made available on the issuers website. This also means that the issuer had not secured the information was made quickly available in a non-discriminating way.

The Disciplinary Committee assessed that the issuer did not disclose a company announcement about the resolutions adopted at the general meeting as soon as possible after the general meeting had been held. The announcement was not disclosed until the day after the general meeting had been held and the resolutions was made available on the issuers website. This also means that the issuer had not secured the information was made quickly available in a non-discriminating way.

As such, the issuer had violated the requirement in rule 4.2.6, cf. 2.1.5 in Nasdaqs rules.

The Disciplinary Committee decided to reprimand the issuer.

### **1.1.3 Bonds [blank]**

## **1.2 Statements concerning the Main Market [blank]**

# First North Copenhagen

## 2.1 Sanctions

### 2.1.1 Shares

#### 2.1.1.1 **Non-disclosure of the board of directors' decision to use an authorization to make a capital increase following conversion of debt (27 June 2023)**

(Anonymous)

The board of directors of a company decided to use the authorization from the general meeting to make a capital increase, due to a debt conversion. The board of directors' decision was made 25 days prior to the company's announcement to the market.

In accordance with rule 4.2.2(d) in Nasdaq First North Growth Market Rulebook for Issuers of Shares (Nasdaq's rules), an issuer shall disclose an announcement if the company's board of directors decide to use an authorization as issued by the company's shareholders at a general meeting.

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the company to explain why no announcement about the decision to use the authorization had been disclosed. The company explained the company had not been aware that the decision to use an authorization was covered by a disclosure obligation. The company had not been aware of the obligation until the company had been in a dialogue with Surveillance in connection with the admittance of trading for the newly issued shares. The company then disclosed the announcement to the market.

Based on the explanation from the company Surveillance assessed that the company had violated rule 4.2.2(d) in Nasdaq's rules and decided to present the case to the Nasdaq Copenhagen Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the company had not disclosed an announcement about the board of directors' decision to use an authorization to make a capital increase due to a conversion of debt. This only happened when Surveillance made the company aware that the information was covered by a disclosure obligation. As such, the company had violated the requirement in rule 4.2.2(d) in Nasdaq's rules.

The Disciplinary Committee decided to reprimand the company.

### **2.1.1.2 Reprimand and fine for disclosure of resolutions adopted at the general meeting, disclosure of the annual report after the deadline and compliance with requirements for admittance to trading (25 September 2023)**

*(Hypefactors A/S)*

The case concerns

1. Disclosure of resolutions adopted at the general meeting
2. Disclosure of the annual report after the deadline
3. Compliance of requirements for admittance to trading in relation to internal procedures etc.

Lastly, a description of Nasdaq Copenhagen Disciplinary Committee (Disciplinary Committee) considerations on sanctions.

#### 1. Disclosure of resolutions adopted at the general meeting

Hypefactors A/S (the company) published the resolutions adopted at the annual general meeting as investor news.

In accordance with rule 4.2.2 (b) in Nasdaq First North Growth Market Rulebook for Issuers of Shares (Nasdaq's rules), an issuer shall, after the close of the general meeting, disclose an announcement about the resolutions adopted at the general meeting. In accordance with rule 4.2.1 (a) in Nasdaq's rules, information to be disclosed in accordance with 4.2.2 shall be disclosed in the same manner as information disclosed in accordance with 4.1. In accordance with rule 4.1, an issuer shall disclose inside information in accordance with Article 17 of the Market Abuse Regulation.

The rule in article 17 of MAR is supported by the Commission Implementing Regulation no. 2016/1055 (implementing regulation). In article 2(1)(a) of the implementing regulation it is stated that issuers shall disclose inside information using technical means that ensure that inside information is disseminated to as wide a public as possible on a non-discriminatory basis, free of charge and simultaneously throughout the Union. This means that the resolutions adopted at a general meeting shall be disclosed as soon as possible and in a way that ensure the information is disseminated to as wide a public as possible on a non-discriminatory basis, free of charge and simultaneously. This is ensured when disclosing a company announcement.

Based on that, Nasdaq Copenhagen Surveillance (Surveillance) requested the company to explain why the company had published the resolutions adopted at the general meeting as investor news and not disclosed the information as a company announcement. The company explained that they were not aware that the resolutions adopted at the general meeting had been published as investor news. This was either due to an issue in the system for disclosure or a human error within the company.

Based on the company's explanation, Surveillance assessed that the company could have violated rule 4.2.2 (b), cf. 4.2.1(a) in Nasdaq's rules and as such Surveillance presented the case to the Disciplinary Committee.

## 2. Disclosure of the annual report after the deadline

On 28 April 2023, the company disclosed an announcement that contained non-audited financial results for 2022. According to the announcement, the audited annual report for 2022 would be accessible at the company's website on 4 May 2023.

On 2 May 2023, Nasdaq Copenhagen Surveillance (Surveillance) contacted the company's Certified Adviser as to why the company had delayed the disclosure of the audited annual report until the 4 May 2023. Certified Adviser had been informed by the company that the annual report would be delayed due to a delay in the process with an external part.

On 8 May 2023, Surveillance contacted the Certified Adviser and asked why the audited annual report had not yet been disclosed by the company. Later that day, 8 May 2023, the company disclosed the audited annual report.

In accordance with Supplement D, rule 4.3.1 in Nasdaq's rules, an issuer shall disclose an annual report. The financial report shall be disclosed as soon as possible and no later than 4 months after the end of the financial year, cf. Supplement D, rule 4.3.4 in Nasdaq's rules. According to the company's articles of association the financial year of the company aligns with the calendar year. This means, that the deadline for the disclosure of the company's annual report expired 30 April 2023.

Due to this, Surveillance requested the company to explain why the annual report had been disclosed after the deadline had expired. The company explained that the audited annual report was to be finalized for disclosure on the 28 April 2023 as agreed between the company and an external part. Against the company's expectation the annual report was still not finalized by the external part on the 4 May 2023. The annual report was not finalized until 8 May 2023 in which the company immediately held a meeting for the annual report to be approved by the company's management and disclosed to the market.

Based on the company's explanation, Surveillance assessed that the company could have violated rule Supplement D, rule 4.3.4 in Nasdaq's rules and as such Surveillance presented the case to the Disciplinary Committee.

The company had in two previous instances received a reprimand by the Disciplinary Committee for disclosing a financial report after the deadline set in Nasdaq's rules. This means, that this was the third instance of which the company disclosed a financial report after the deadline set in Nasdaq's rules.

### 3. Adequate procedures, controls, and systems to provide information to the market

According to rule 2.3.9(c) in Nasdaq's rules, the issuer shall have an information policy to support compliance with its obligation to provide the market with timely, reliable, accurate and up-to-date information. An issuer's information policy shall be a written document.

Due to the above and the two mentioned instances in which the company had previously been reprimanded by the Disciplinary Committee, Surveillance requested the company to explain the company's procedures in relation to the handling of the financial reports. The company explained that the information policy had not been updated although the company had previously received two reprimands for disclosing a financial report after the deadline and that the information policy still applied as stated. The company also explained that the company, after the disclosure of 8 May 2023, laid a plan together with an external part which aimed to secure that the company would comply the deadline set in Nasdaq's rules.

Based on the information in the case and the company's explanation, Surveillance assessed that the company could have violated rule 2.3.9(c) in Nasdaq's rules and as such Surveillance presented the case to the Disciplinary Committee.

#### Decision

The Disciplinary Committee assessed that the company had violated rule 4.2.2(b), cf. 4.2.1(a) in Nasdaq's rules, as the company had not ensured the resolutions adopted at the general meeting had been disseminated to as wide a public as possible on a non-discriminatory basis, and simultaneously as the resolutions adopted at the general meeting was published as investor news and not disclosed as a company announcement.

The Disciplinary Committee also assessed that the company had violated Supplement D, rule 4.3.4 in Nasdaq's rules because the company disclosed the annual report after the deadline set in Nasdaq's rules as the deadline for the disclosure of the company's annual report expired 30 April 2023, but the company disclosed the annual report on 8 May 2023.

The Disciplinary Committee noted the repeated violation was not satisfying as the company had previously received two reprimands for disclosing a financial report after the deadline set in Nasdaq's rules.

The Disciplinary Committee noted the company have previously received two reprimands for violating the deadline set in Nasdaq's rules, for disclosing financial reports, and the company had again repeated the violation of disclosing a financial report and had also not disclosed the resolutions adopted at the general meeting in a proper manner. The Disciplinary Committee also assessed that the course of events had shown that the company had not had a procedure to support the disclosure of financial reports in a timely manner. The Disciplinary Committee included in the assessment that the company had not updated the procedures until after the company for the third time had disclosed a financial report after the deadline set

in Nasdaq's rules and that the update afterwards was made as an oral agreement but the company had not in writing updated the company's information policy.

Based on that, the Disciplinary Committee decided that the company should be reprimanded and pay a fine equal to one (1) annual fee.

The paid fine is transferred to the Nasdaq Nordic Foundation for the promotion of the Foundation's objectives <sup>2</sup>.

### **2.1.1.3 Late disclosure of the board of directors decision to use an authorization to commit to a capital increase following a conversion of debt (13 December 2023)**

*(Nexcom A/S)*

The company disclosed a company announcement about a capital increase following a conversion of debt. The board of directors had made the decision to use the authorization four days prior to the disclosure of the announcement.

According to rule 4.2.2(d) in Nasdaq First North Growth Market Rulebook for Issuers of Shares (Nasdaq's rules), a company shall disclose a company announcement if the board of directors decides to use an authorization as issued by the company's shareholders at a general meeting. According to rule 4.2.5(a) in Nasdaq's rules, a company shall disclose changes in the share capital or the numbers of shares. In accordance with rule 4.2.1(a) in Nasdaq's rules, information covered by rule 4.2.2 and rule 4.2.5 shall be disclosed in the same manner as information covered by rule 4.1. This means, that a company shall disclose a company announcement about the board of directors decision to use an authorization to commit to a capital increase, and changes in the share capital or the numbers of shares, as soon as possible.

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<sup>2</sup> <https://www.nasdaq.com/nasdaq-nordic-foundation>

Due to this, Nasdaq Copenhagen Surveillance (Surveillance) requested the company to explain why the company announcement about the capital increase was disclosed four days after the board of directors made the decision to use the authorization to commit to a capital increase. The company explained that an internal misunderstanding had occurred and as such the announcement had not been disclosed as soon as possible after the board of directors decision.

Based on the explanation from the company Surveillance assessed that the company had violated rule 4.2.2(d), cf. 4.2.1(a) and rule 4.2.5(a), cf. 4.2.1(a) in Nasdaq's rules and decided to present the case to Nasdaq Copenhagen Disciplinary Committee (the Disciplinary Committee).

The Disciplinary Committee assessed that the company had not disclosed the company announcement about the capital increase following a conversion of debt as soon as possible after the board of directors had decided to use the authorization, as the company disclosed the announcement four days after the decision had been made by the board of directors. As such, the company had violated the requirement in rule 4.2.2(d), cf. 4.2.1(a) and rule 4.2.5(a), cf. 4.2.1(a) in Nasdaq's rules.

The Disciplinary Committee decided to reprimand the company. As the company had received a reprimand earlier this year for violating rule 4.2.2(d) in Nasdaq's rules, the Disciplinary Committee decided that the name of the issuer should be made public.

## **2.1.2 Bonds [blank]**

## **2.2 Statements concerning First North [blank]**