

The 8th Nordic IR Conference

Corporate Governance and Corporate Governance Codes – do they really make a difference?

Advokat Carl Svernlöv
carl.svernlöv@bakernet.com



Baker & McKenzie International is a Swiss Verein with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a “partner” means a person who is a partner, or equivalent, in such a law firm. Similarly, reference to an “office” means an office of any such law firm.

Contents

- Corporate governance: recent developments and international trends
- Do corporate governance codes really change anything--are companies now more efficiently governed?
- A peek in the crystal ball -- how much corporate governance is too much?

International trends - US

- Staggering costs of implementing SOX are leading to increased questioning of the law
- Recent studies show corporate scandals and SOX to be largely irrelevant for "restoring investor confidence"
- Nevertheless, regulators and legislators resist reform

International trends - EU

- Main principles for EU corporate governance efforts
 - improving transparency
 - empowering shareholders

International trends – EU con't

- Short-term priorities
 - Promote good corporate governance (by recommendations, not legislation)
 - Transparency in company accounts
 - Shareholder rights
 - Improving the EU audit framework (and improving quality of auditors' work)

International trends - Nordics

Corporate governance codes here to stay

- Reviderede anbefalinger for god selskabsledelse i Danmark 15 August 2005
- Corporate Governance Recommendation for Listed Companies (Finland) December 2003
- Norsk anbefaling – Eierstyring og selskabsledelse (Corporate Governance), 8 December 2005
- Svensk kod för bolagsstyrning 16 December 2004

International trends – Nordics

Denmark

- Comply or explain principle in effect from 1 January 2006
- Focus on de-listings, private equity, A&B shares (and the EU policy on these)

International trends – Nordics

Norway

- Increased documentation and increased transparency
- New stock market rules require Norwegian listed companies to prepare an annual corporate governance report
- Proposed changes to Norwegian Companies Act, including remuneration provisions based on EU recommendation

International trends – Nordics

Finland

- A new Finnish Companies Act in effect from 1 September 2006 – the Finnish Code may need to be adapted,
- To what extent the EU Commission's recommendations should be enacted
- The impact of the Nordic list

International trends – Nordics

Sweden

- Implementation and initial assessment of impact of Swedish Code of Corporate Governance
- Remuneration of managers – new legislation based on EU recommendation
- Equality on corporate boards

Do corporate governance codes really change anything--are companies now more efficiently governed?

- *Having* a code is important
 - Cf. FTSE ISS Corporate Governance Rating and Index Series – 2003 survey:
Scandinavian countries Denmark, Norway, and Sweden have the poorest ratings
 - Many investors will not invest without one

Do corporate governance codes really change anything--are companies now more efficiently governed?

Some immediate effects:

- More transparency and information
- A greater focus on governance issues

BUT

- More bureaucracy and "ticking-the-box"

Future developments in corporate governance

- Review of Nordic codes after 2-3 years of application
- A market-driven trend towards convergence in Europe, cf. expected impact of joint Nordic list
- BUT: no European Corporate Governance code

Future developments in corporate governance

- A dangerous development to watch out for: "seepage" from self-regulation to law – e.g. remuneration of directors of listed companies
- Possibly a greater focus on liability issues when the economic cycle turns

A peek in the crystal ball -- how much corporate governance is too much?

- Internal Market Commissioner Charlie McCreevy: “Protectionism and unnecessary red tape can strangle business in Europe. And the costs of regulation should not outweigh the advantage of gaining access to capital via listing. [In the future], our main concerns must be to encourage competitiveness and apply better regulation principles in full.”



Carl Svernlöv
carl.svernlöv@bakernet.com
0708-676 707



Baker & McKenzie International is a Swiss Verein with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a “partner” means a person who is a partner, or equivalent, in such a law firm. Similarly, reference to an “office” means an office of any such law firm.