



# Listing Act: MAR-Specific Changes for Swedish Listed Companies



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On 4 December 2024, the Listing Act will enter into force, introducing amendments to the EU Prospectus Regulation (2017/1129), the EU Regulation and Directive on Markets in Financial Instruments (MiFIR and MiFID II), and the EU Market Abuse Regulation (596/2014) (MAR). As a consequence, the adoption of the new Listing Act entails the repeal of the EU Listing Directive. The Listing Act further introduces a new Directive for harmonising new rules on multiple-vote share structures. This article outlines the key changes and practical steps that publicly listed companies or companies undergoing the process of becoming listed need to undertake to ensure compliance with the amendments in MAR.

## 1. Key Changes to MAR

- **Protracted Process Disclosure:** The obligation to disclose inside information that constitutes an intermediate step in a multi-staged event, known as a protracted process, has been amended. Under the current regime, inside information must be disclosed as soon as possible if not the prerequisites for delayed disclosure are fulfilled. However, the amendments under the Listing Act will exclude protracted processes (such as mergers, acquisitions and litigations) from this obligation, which typically meet the criteria for delayed disclosure. Instead, an issuer will be required to disclose the information only when the final step in the process is reached, provided that confidentiality is maintained. Until this final step is taken, the issuer will

not be considered to be delaying the disclosure and will not need to comply with the conditions for delaying disclosures.

The aforementioned change pertains only to the obligation to disclose inside information under Article 17 of MAR. The meaning of the term "inside information" in Article 7 of MAR does however not change and hence if any inside information arises during a protracted process, an issuer must still create an insider list. In addition, the prohibition on insider trading according to Article 14 MAR remains applicable until the inside information has been disclosed.

The European Commission has been mandated to produce a non-exhaustive list of "intermediate steps" and the point in time at which the final event is considered to have occurred and thus should be disclosed.

- **Clarification of the Criteria for Delayed Disclosure:** The condition that the delay of disclosure is not likely to mislead the public has been changed. The new condition, which will replace the current one, stipulates that the information the issuer intends to delay must not contradict the latest public announcement or any other type of communication by the issuer on the subject matter. The European Commission has been mandated to produce a list of situations where the inside information to be delayed contrasts with the latest announcement or other types of communication.
- **PDMR Transactions Threshold:** Transactions conducted by Persons Discharging Managerial Responsibilities (PDMR) or Persons Closely Associated to a PDMR must be reported when exceeding EUR 20,000 within a calendar year, instead of the previous threshold of EUR 5,000. The Swedish Financial Supervisory Authority (SFSA) may resolve to increase the threshold to EUR 50,000 or lower it to EUR 10,000. The new threshold of EUR 20,000 will take effect from 4 December 2024, and the SFSA has communicated that the threshold for the remainder of 2024 is EUR 20,000. During 2025, the SFSA will evaluate the new threshold and may decide to exercise its mandate to change it.
- **Market Soundings:** The Listing Act further clarifies the rules on market soundings. The definition of market soundings is expanded to include potential transactions, meaning that a transaction does not need to be announced in connection with the market sounding. The amendments also clarify that the market sounding regime provides a safe harbour against allegations of unlawful disclosure of inside information, provided that certain requirements, such as documenting in writing whether the sounding discloses insider information, obtaining consent from the recipient of the insider information during the sounding and providing this documentation to the SFSA upon request, are fulfilled.
- **Exemptions During Closed Periods:** The current exemptions from transactions during closed periods are expanded to include trades that do not relate to active investment decisions, result exclusively from external factors or actions by third parties, or are based on predetermined terms.

The amendments concerning PDMR transactions threshold, market soundings, and exempted transactions during closed periods will enter into force on 4 December 2024, while the amendments regarding protracted process of disclosures and clarification of delayed disclosure of inside information become applicable 18 months thereafter.

## 2. Practical Steps for Compliance

The Listing Act introduces changes to MAR that will impact publicly listed companies or companies planning to be listed in the EU/EES, including Sweden. By understanding these changes and taking proactive steps to ensure compliance, companies can mitigate risks and avoid substantial penalties. It is crucial for companies to update their inside information and communication policies and enhance internal processes to meet the new requirements effectively.

**Update Inside and Information Policies:** Companies should review and update their inside information and communication policies to reflect the new requirements.

**Enhance Internal Processes:** Companies are encouraged to strengthening their internal processes for identifying, assessing, managing, and disclosing inside information. This may involve additional training for employees and the implementation of new technologies to facilitate timely and accurate disclosures.

For further guidance on how to comply with the new MAR requirements or for information on the new Listing Act, please contact our [Equity Capital Markets team](#).

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