STUDY ON SIGNIFICANT DEVIATIONS IN FINANCIAL RESULTS OR FINANCIAL POSITIONS IN THE NORDIC MARKETS

Background and Scope

During 2016, Nordic Surveillance has conducted a study with the scope of identifying possible differences in market practices and interpretations in the Nordic markets relating to situations in which companies disclose deviations in financial results or financial position or in which companies disclose forecast adjustments. The study focused on situations where such deviations could be considered significant, in the sense that they might constitute inside information. Such disclosures were classified as profit warnings, even though the legal definition for profit warnings might differ between the Nordic countries or be non-existent in some countries. Update of financial results within a previously disclosed guidance was classified as clarifications, which may be a less significant deviation.

Gathered data (April 1, 2016–November 30, 2016) included information about deviations published in separate announcements, forecast adjustments published with financial reports and clarifications to previously disclosed information on future prospects or changes in financial positions. The study covered Main Market companies. The Swedish part of the study did not include deviations classified as clarifications.

Regulation

The obligation to disclose financial information and/or inside information to the public as soon as possible derives primarily from EU legislation on market abuse and transparency, as well as requirements in national legislation. Furthermore, the Exchange's Rule Book for Issuers includes Nordic harmonized requirements on financial information and inside information that companies are obligated to follow.

During the time data was gathered, the EU Regulation on market abuse[1] ("MAR") entered into force on July 3, 2016, and the Exchange's Rule Book for Issuers was updated on the same date.[2] Even if the study indicated that MAR brought no changed practices regarding disclosures of significant deviations in financial results or financial positions, as similar requirements existed in the EU Market Abuse Directive[3] and/or national legislation and thus had no implications for the study, there is a possibility that MAR will have effects on Swedish listed companies' practices going forward since the obligation to disclose inside information "as soon as possible" might be interpreted differently in Sweden after the entering into force of MAR as compared to before.

Findings and Conclusions

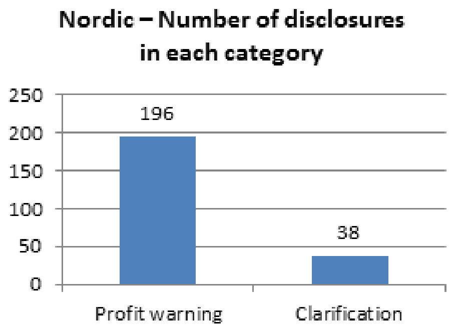
The total number of disclosures during the observation period was 234 (Denmark 134, Finland 72, Sweden 19 and Iceland 9). Of these, 196 (Denmark 105, Finland 63, Sweden 19 and Iceland 9) were categorized as profit warnings and 38 (Denmark 29, Finland 9, Sweden 0 and Iceland 0) as clarifications.

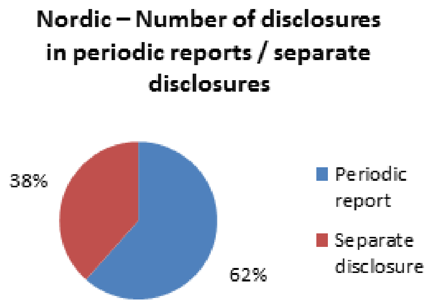
The diagrams on the next page illustrate the main results of the study on a Nordic level.

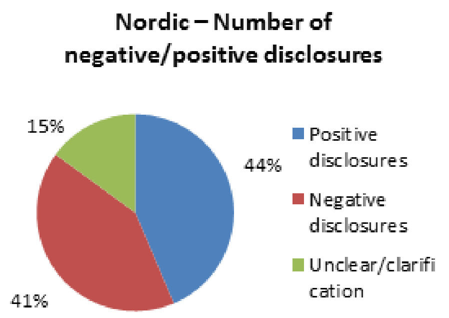
[1] Regulation (EU) No. 596/2014

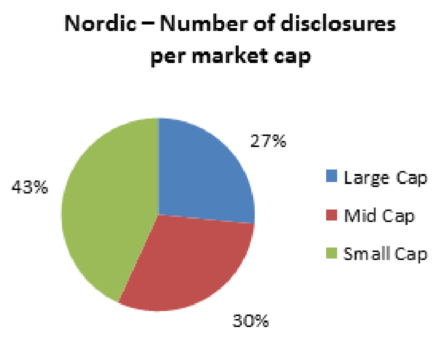
[2] MAR has not yet entered into force in Iceland

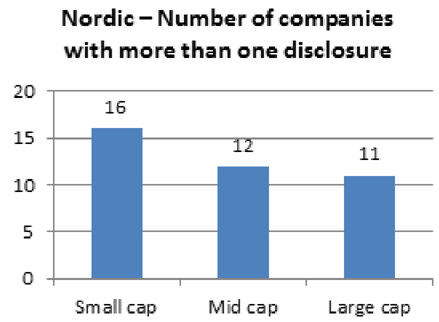
[3] Directive 2003/6/EC

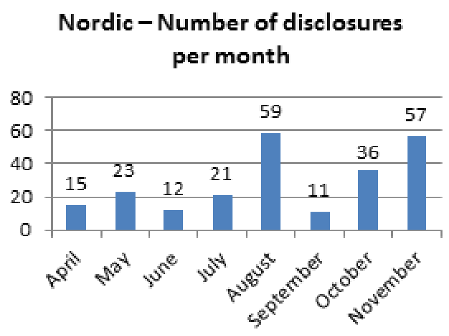












The study revealed certain differences in practices between the Nordic countries. The number of disclosures is relatively higher in Finland, Denmark and Iceland than in Sweden. In addition, the number of separate disclosures was higher in Finland than in the other countries. In all Nordic countries, deviations in financial results or financial position or forecast adjustments were disclosed relatively close to the financial reports.

One explanation of the outcome could be different market practice as regards the interpretation of the EU Accounting Directive[4], whereas Swedish companies do not usually disclose any material guidance in the same way as in the other countries. This naturally affects the number of disclosures on changes in financial result or financial position. Most observed profit warnings from Swedish companies were disclosed as preliminary information before a financial report, as a separate release.

Danish and Icelandic companies provide financial guidance in their annual reports (financial statements) and often change the guidance in interim reports. Some companies change the guidance several times during a year and hence the changes may expectedly be less significant. Disclosures can be either adjustments to previously disclosed guidance or actual profit warnings or even a clarification within the previous guidance. Sometimes the companies change their guidance in a separate disclosure due to either a single event or based on a general development of the business.

[4] Directive 2013/34/EU

Finnish companies disclose guidance in the financial statement release based on the EU Accounting Directive and requirements in the Finnish Accounting Act and disclose changes in that guidance and what could be reasonably expected based on financial information previously disclosed by the company. In Finland, companies tend to disclose also changes (clarifications or adjustments) that may not constitute inside information as a separate disclosure even if that is not required based on applicable rules and legislation.

Recommendations

Based on the study, Nordic surveillance has agreed to highlight the following:

- When disclosing information regarding significant deviations, special attention should be paid to the level of information since the disclosure most likely will result in a significant effect on the share price. The disclosure shall always include sufficient reasoning for the deviation, change and underlying assumptions.

- As regard changes to guidance, previously disclosed guidance shall always be included in the disclosure in order to evaluate the significance of the change.
- Clarifications that are not considered inside information can be disclosed in periodic reports. Adjustments that are considered inside information can be disclosed in a periodic report only if the disclosure fulfils the requirement on "as soon as possible" and is disseminated on a non-discriminatory basis in accordance to MAR.
- With reference to guidance published by the European Securities and Markets Authority, it is highly unlikely that a disclosure of inside information relating to financial performance, such as a profit warning in accordance with the definition used in the study, can be delayed. Nevertheless, if such a delay is considered the company must carefully assess whether all requirements for a delayed disclosure according to MAR are fulfilled, especially whether the delay is likely to mislead the public.
- Companies are not obliged to comment on analysts' estimates. However, if analysts' estimates differ substantially from disclosed guidance or what could be reasonably expected based on financial information previously disclosed by the company or from the actual performance of the company, the company should investigate whether it may have given the market certain expectations based on information previously disclosed by the company and assess whether a profit warning should be disclosed.