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Investing in Sweden

By Niclas Rockborn and Charlotta Falkman

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This article will cover investments in Sweden through mergers and acquisitions, primarily those of banks.

Generally, foreign takeovers are privately negotiated and made on an agreed basis but they may also be affected by means of a public offer.

The Swedish financial market consists of reliable and efficient systems for saving, financing and mediating payments and risk management, which is of great importance to Swedish wealth. These systems are operated mostly by banks, whose main business is to manage the financial system by accepting deposits and providing credits. They also provide a technically advanced and safe payment system at a low cost, and offer support to corporate and retail customers in assessing their financial risks. The systems are also operated by other credit institutions, insurance companies and securities companies, as well as other companies in the financial sector.

There are four main categories of banks in the Swedish financial market. The largest category is *Swedish commercial banks* and here we find some of the most important players in the Swedish financial market: Swedbank, Handelsbanken, Nordea and SEB. These leading banks are categorised as universal banks, meaning that they are represented on a large proportion of the financial markets and offer all kinds of financial services. Besides focusing on traditional banking, they have separately evolved since the mid-1990s into competing banking groups with extensive international activities across life insurance, asset management and mortgage lending. The

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second category of banks on the Swedish market is *foreign banks*. The most prominent are Danske Bank from Denmark and DnB NOR from Norway. The third category is *savings banks*, consisting of small banks in regional or local markets acting independently or often in cooperation with Swedbank. Finally, there are a few *co-operative banks* on the Swedish financial market that are organised as economic associations.

During the last 10 years, the Swedish banking system has been affected by changes in the financial markets. A significant change is the establishment of foreign bank branches, which have gained market share in Sweden. Certain banks (such as Länsförsäkringar Bank and ICA Banken) have established themselves as telephone/internet banks, which are accessible to those customers that

appreciate conducting their daily banking activities away from a bank's premises. These new channels of distribution have forced the established banks to develop their own internet banking services, as well as opening the market to new banks. Such new banks are, however, still mainly focused on the retail business.

The four most prominent Swedish commercial banks – Swedbank, Handelsbanken, Nordea and SEB – are all listed on NASDAQ OMX Stockholm, which is the main securities market in Sweden.

Acquisition targets

Banking business in Sweden is generally conducted through limited liability companies (Sw: *aktiebolag*, or AB). This article deals exclusively with mergers and acquisitions of such companies, and in particular with banking companies (as mentioned above, the *co-operative banks* are organised as economic associations and they will not be commented on further).

ABs

Ownership of a limited liability company (an AB) is conferred by the holding of shares. All shares in an AB must carry voting rights, although different classes of shares with differing voting rights may be issued. However, no share may be issued with more than 10 times the voting rights of another.

Swedish law draws a distinction between public and private ABs. Only public ABs are allowed to turn to the public to procure new capital. The minimum share capital in public ABs is SEK500,000 (US\$72,000) whereas private ABs have a minimum share capital of SEK100,000. The share capital of an AB may also be expressed in euros. The share capital of a bank AB shall be decided taking into account the scope and nature of the business.

An AB is managed by a single board of directors, which is normally elected by the shareholders. A bank AB must have a board of directors consisting of at least three directors. The majority of these directors cannot be employed by the bank or by any other company within the same group of companies as the bank.

Control of more than 50% of the voting rights in a company will confer control of the composition of the board of directors. The board may appoint a managing director, and must do so where the company is a public AB or a bank AB. Unless the Swedish Companies Registration Office grants an exemption in a particular case, the managing director and at least half of the directors of a Swedish company must be resident within the EEA. In addition, if the company has a certain number of employees in Sweden and is bound by a collective agreement with a union, employees have

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Rockborn is ranked by various external ranking institutions, such as Chambers & Partners in its Europe 2009 edition within Banking and Finance (Band 4) and by PLC Which Lawyer? in its 2009 edition as highly recommended within Investment Funds.

A member of the Swedish Bar Association and the IBA, Rockborn speaks Swedish and English and was educated at the University of Arizona, Tucson, US (1997-1998) and the University of Uppsala (1992-1998).

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Charlotta Falkman has practiced at Gernandt & Danielsson Advokatbyrå KB since 1997, and has been a partner since 2007. Her experience includes time spent as a deputy judgeship at the Swedish District Courts (1996-1997), and as a trainee at Swedish law firm Vinge (1995).

Within the practice of litigation and arbitration, Falkman has extensive experience as counsel in international arbitration. Her practice covers *ad hoc* proceedings as well as proceedings under the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. Falkman is also appointed to act as arbitrator.

Within the practice of mergers and acquisitions, Falkman has experience both from domestic and international transactions. Her practice also covers several cross-border real estate transactions. With the practice of corporate law, Falkman regularly assists in connection with joint venture cooperations and the drafting of shareholders' agreements and other cooperation agreements.

A member of the Swedish Bar Association and the IBA, Falkman is also a member of the board of Young Arbitrators Stockholm (YAS), an association under the Arbitration Institute of the Stockholm Chamber of Commerce (www.sccinstitute.se). She speaks Swedish, English and French, and was educated at the Université de Lausanne (1993-1994) and the University of Uppsala (1988-1995).

– representing at least nine-tenths of all issued shares in the company – will normally be necessary for amendments which:

- 1) reduces current shareholders' rights to profits or other assets
- 2) restricts the transferability of already issued shares in the company, or alters the legal relationship between already issued shares.

Existing shareholders have pre-emption rights to subscribe for new shares in the case of new issues of shares. These rights can, as regards cash and set-off issues, be disappplied by a shareholders' resolution or by a provision in the articles of association in certain circumstances.

The Companies Act 2005 provides that all shareholders may exercise their voting rights in full, unless otherwise provided in the articles of association. Minority shareholders i.e. holders of not less than one-tenth of all shares of a Swedish company have certain minority rights for the protection of their interests.

The Swedish code for corporate governance is based on the Companies Act 2005 and the tradition of self-regulation that prevails in Sweden. The code, which is applicable to all companies listed on a regulated market in Sweden, deals primarily with the organisation of corporate governance, management bodies and their work procedures, and interaction between these bodies. It does not deal with division of power among the company's owners. As with most similar codes in other countries, the Swedish code is based on the principle 'comply or explain'. This means that a company can deviate from the code's provisions without this entailing a breach of the code. A company that intends to deviate from a regulation in the code must, however, explain why the deviation is occurring.

Barriers to hostile acquisitions

There is no general prohibition on foreign persons or entities acquiring shares in Swedish companies. As mentioned at the outset, shares

of a Swedish company may be divided into different classes with different voting rights and this may, in practice, impede the success of a hostile offer. When a company goes public, shares conferring voting control are often retained by the initial shareholders.

the right to appoint directors and deputy directors. The employee directors may not outnumber the ordinary directors. The powers and duties of directors appointed by employees are essentially the same as those of the directors appointed by the shareholders. Institutional investors and other companies often control the majority of the votes in Swedish publicly traded companies. As a rule, resolutions during a shareholders' meeting require a majority of more than half of the votes cast to be adopted. Certain resolutions however require approval by higher majorities. For example, approval by all shareholders present at a shareholders' meeting

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Employment aspects

According to the Employment Protection Act 1982, an employee will – in the case of a sale of a business in whole or in part, i.e. not in the case of a share sale – automatically be taken over by the purchaser of the business provided the employee is not opposed to

that arrangement. The employment agreements existing on the day of the transfer will be transferred to the purchaser. The purchaser of the business will be responsible (together with the seller) for monetary obligations which have arisen from the employment agreements prior to the transfer. These rules are based on EC law.

Supervision

Swedish banks are subject to supervision by the Swedish Financial Supervisory Authority (the FSA). The objective of the FSA is to promote stability and efficiency in the financial system as well as to ensure effective consumer/retail protection. The FSA is responsible for issuing licenses to banks and other financial institutions as well as supervising them. Should the FSA find that the operations of an institution are not sound or that the institution otherwise is breaching laws or regulations, it may impose administrative sanctions – such as disciplinary reprimands, warnings, fines and ultimately revocation of the license to operate.

Investment control

The acquisition of Swedish business enterprises by foreign entities is generally not subject to any restrictions.

To avoid conflicts of interest, the Swedish banks are based on the principle that ownership and lending shall not be mixed. As a result of this, the banks have an independent standing in relation to their counterparts.

The Banking and Financing Business Act, which is based on EC law, contains specific provisions regarding the assessment of an owner's suitability to own a qualified holding in a bank or financial institution. A qualified holding is a direct or indirect ownership in an undertaking where the holding represents 10% or more of the equity capital, all voting/ participating interests, or renders it possible for the owner to exercise a significant influence over the management of the undertaking.

The rules imply that a direct or indirect acquisition of bank shares, which result in a qualified holding for the acquirer, may take place provided that FSA consent has been obtained prior to the acquisition. The aforesaid also applies to acquisitions that result

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in an increase in a qualified holding – amounting to or exceeding 20%, 30% or 50% of the equity capital or voting capital for all shares – or that cause the undertaking to become a subsidiary.

If the acquirer is deemed suitable to exercise significant influence over the management of a bank – and it is believed that the anticipated acquisition is financially sound – then the FSA shall grant authorisation for a qualified acquisition.

When assessing whether a qualified acquisition shall be authorised, the FSA shall also consider the acquirer's likely impact on the business of the bank as well as its reputation and financial strength. The FSA shall also take into consideration the suitability of any person who, as a result of the acquisition, becomes a board member

of the bank or act as its managing director. This includes whether he or she has sufficient insight and experience to participate in the management of a bank, and is also otherwise suitable for such a task.

Finally, the FSA shall also consider whether there is reason to believe that the acquirer might impede the operations of the bank in such a way as to be incompatible with the Banking and Financing Business Act.

If a bank becomes aware that a transfer of its shares has resulted in a qualified holding being reached, the bank shall immediately notify the FSA of the acquisition. The same applies if the bank becomes aware of a divestment of its shares that has resulted in that holding being less than any of the thresholds stated above. In addition, if a legal person owns a qualified holding of bank shares, it shall immediately report any changes in the management of the bank to the FSA.

Finally, in certain cases, the FSA may order an owner to divest such a portion of its shares that the holding thereafter no longer constitutes a qualified holding.

Merger control

The Competition Act 2008, which is based on EC law, requires that certain mergers and acquisitions be notified to the Swedish Competition Authority. Notified transactions may, under certain circumstances, be prohibited by the Stockholm District Court.

The merger control rules of the Competition Act 2008 apply to concentrations, namely:

- (a) mergers where two or more previously independent undertakings merge; or
- (b) where control of an undertaking or a part thereof is acquired.

The Act also applies to the establishment of fully functioning joint ventures.

The merger control rules apply in all cases provided that a) the aggregate turnover of the undertakings concerned in Sweden in the preceding financial year exceeded SEK1 billion (US\$144 million), and b) the turnover in Sweden of at least two of the undertakings concerned in the preceding financial year exceeded SEK200 million each. A negative prerequisite for the Swedish merger control rules is that the EC Merger Regulation does not apply.

If the purchasing party belongs to a group consisting of several companies under joint control or otherwise connected, the aggregate turnover of the group shall be deemed to be the purchasing party's annual turnover. If the purchaser is jointly controlled by two or more companies, the turnover of each of the groups to which the 'parent' companies belong shall be included when calculating the turnover of the purchasing party. With regard to the target, only the turnover of the undertaking or business activities being transferred is relevant (and not the turnover of the seller).

With respect to partial acquisitions (e.g. the acquisition of some but not all of the shares in a company), the merger control rules apply only if the transaction enables the purchaser to exercise a decisive influence over the target. It follows that the rules do not apply when somebody who already controls a company acquires

additional shares in that company. However, they do apply to the transaction from joint to sole control since, in such a case, one form of decisive influence (joint control) is substituted for another form (sole control).

Regulation of conduct of mergers and acquisitions

As of July 1 2006, Swedish takeover rules are set forth in the Swedish Takeover Act 2006. These rules are complemented by the Rules Concerning Public Offers for the Acquisition of Shares issued by NASDAQ OMX Stockholm on October 1 2009 (this is a result of the implementation of the EC Takeover Directive).

Furthermore, certain provisions as regards the offer document are set forth in the Financial Instruments Trading Act 1991, through which inter alia the EC Prospectus Directive has been implemented. It should be noted that the greater part of the takeover rules and regulations described herein will also be applicable to companies whose shares are listed on other regulated markets in Sweden. The Swedish Industry and Commerce Stock Exchange Committee (the NBK) has issued new Rules Concerning Public Offers for the Acquisition of Shares issued by companies listed on First North, Nordic MTF and Aktietorget, which will enter into force from January 1 2010.

The Takeover Act 2006, the Takeover Rules, and the Financial Instruments Trading Act 1991 generally apply to takeover offers (irrespective of whether such offers are made by a Swedish or foreign legal entity or physical person) to shareholders in companies listed on NASDAQ OMX Stockholm to transfer their shares to the offeror on general terms. The rules cover public takeovers of shares listed on NASDAQ OMX Stockholm, not only issued by Swedish companies but also, under certain circumstances, to foreign companies.

Takeover Act 2006 and Takeover Rules

The primary aim of the Takeover Rules and the Takeover Act 2006 is to ensure that all shareholders of a target company receive sufficient information to enable them to make an informed decision on an offer. The Rules and Act also seek to ensure that all holders of shares of the same class receive equal treatment, and that the board of the target company acts in good faith – directed only by the best interests of the shareholders.

The Act mainly includes provisions regarding mandatory bid requirements, target board frustration measures, information to employees, and breakthrough clauses in a target company's articles of association and supervision. Other provisions regulating takeover offers are set forth in the Rules (other than those described below).

Financial Instruments Trading Act 1991

The Financial Instruments Trading Act 1991 contains inter alia regulations on how trading in financial instruments shall be conducted. It also contains regulations regarding dispositions concerning financial instruments belonging to others, and regulations on disclosure of shareholdings. In particular, the Act provides a set of rules with respect to prospectuses and offer documents to be issued in connection with public offerings and takeover offers respectively.

The Act corresponds to the development on the international securities market and is based on EC law.

Supervision

The FSA supervises adherence to both the Swedish Takeover Act 2006 and the Financial Instruments Trading Act 1991. It may, in the event of non-compliance, prohibit an offer and impose a 'special fee' of up to SEK100 million (US\$14.4 million). NASDAQ OMX Stockholm supervises adherence to the Takeover Rules and may also impose sanctions in the form of a special fee of up to SEK100 million (and in the case of companies whose shares are listed with the Exchange, delisting of the shares of the breaching party). Both the FSA and NASDAQ OMX Stockholm have delegated some of their supervisory roles to the Swedish Securities Council, a private body with an established role

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on the Swedish stock market. This includes the right to grant exemptions from certain provisions of the Takeover Act 2006 and the Takeover Rules and to interpret the Takeover Rules. If rulings by the Swedish Securities Council are not complied with, NASDAQ OMX Stockholm may issue sanctions. The Swedish Securities Council has been modelled on the Panel on Takeovers and Mergers in the UK. The Swedish Securities Council's opinions are made public on its website (with certain exceptions due to confidentiality considerations).

The influence of the Swedish Securities Council is not limited to the conduct of takeovers alone. The Swedish Securities Council also issues statements with respect to matters regarding what constitutes good stock market practice in Sweden in general. However, it has no legal authority to enforce compliance with its opinions or to require that it be consulted in these matters.

在瑞典进行投资

Niclas Rockborn 和 Charlotta Falkman

Gernandt & Danielsson

本文将介绍通过合并和收购的方式在瑞典进行投资，主要是银行的合并和收购。

一般而言，外国收购都是私下进行协商，然后达成协议，但是它们也会受到公开发售活动的影响。

瑞典的金融市场由各种有效可靠的储蓄、融资和调停付款以及风险管理系统组成，这对于瑞典的财富具有十分重要的意义。这些系统大部分是由银行进行操作，银行的主要业务是通过接受存款和提供借贷对金融体系进行管理。银行还会以低成本提供技术先进的安全支付系统，并为企业和零售客户提供支持，帮助他们对金融风险进行评估。这些系统也会由其它信贷机构、保险公司和证券公司及金融产业中的其它公司进行操作。

瑞典的金融市场有四大类型银行。最大的类型是“瑞典商业银行”，当中在瑞典金融市场中最大型的银行包括：瑞典银行（Swedbank）、汉德斯银行（Handelsbanken）、北欧银行（Nordea）和北欧斯安银行（SEB）。这些大型银行被归类为综合银行，意思是它们在大多数金融市场领域都占有席位，提供各种各类金融服务。除了专注于传统银行业务外，自从20世纪90年代中期以来，它们亦分别演进成为各具竞争力的银行集团，国际业务范围极其广泛，涉及人寿保险、资产管理和按揭贷款。瑞典市场上第二类银行是“外国银行”，最著名的是来自丹麦的丹斯克银行（Danske Bank）和来自挪威的挪威银行（DnB NOR）。第三类是“储蓄银行”，包括地区或当地市场上的小型银行，它们

瑞典银行体系受到金融市场变革的影响，其中重大的变革是外国银行支行的设立，这些支行在瑞典夺取了一定的市场份额

会是独立运作或者往往会跟瑞典银行合作。最后，瑞典的金融市场上有少数“合作银行”，以经济协会形式运作。

在过去十年间，瑞典银行体系受到金融市场变革的影响，其中重大的变革是外国银行支行的设立，这些支行在瑞典夺取了一定的市场份额。某些银行（如Länsförsäkringar银行和ICA银行）将自己设立为电话/网上银行，迎合那些喜欢在银行大楼以外进行日常银行活动的客户。这些新的分销渠道迫使一些已具规模的银行去发展自身的网上银行服务，同时也让新的银行加入市场竞争。不过，这些新银行依然主要专注于零售业务。

四家最著名的瑞典商业银行：瑞典银行（Swedbank）、汉德斯银行（Handelsbanken）、北欧银行（Nordea）和北欧斯安银行（SEB），全部都在瑞典的主要证券市场斯德哥尔摩纳斯达克OMX交易所（NASDAQ OMX Stockholm）上市。

收购对象

瑞典的银行业务一般是通过有限责任公司（瑞典语：aktiebolag，或AB）开展的。本文专门论述这类公司的合并和收购，特别是银行类公司（如上文所述，“合作银行”以经济协会形式运作，本文不会作出进一步探讨）。

有限责任公司

有限责任公司的所有权是通过持有股份而赋予的。有限责任公司的所有股份必须具有表决权，尽管公司可发行具有不同表决权的类别股份。不过，发行的任何类别股份都不应具有较另一类别股份10倍以上的表决权。

瑞典法把上市有限责任公司和私人有限责任公司区分开来。只有上市有限责任公司才可向公众人士筹集新资本。上市有限责任公司的最低股本为50万瑞典克朗（72,000美元），而私人有限责任公司的最低股本为10万瑞典克朗。有限责任公司的股本也可以用欧元计值。至于厘定银行类有限责任公司的股本时，必须把业务范围和性质考虑在内。

有限责任公司由单一的董事会进行管理，而董事会通常是由股东选出。银行类有限责任公司必须设有一个至少由三名董事组成的董事会，当中大多数董事不得由有关银行或与有关银行相同集团公司旗下任何其它公司的雇员出任。

若果控制任何公司50%以上的表决权，就相当于控制董事会的组成。董事会可以任命一名董事总经理，而上市有限责任公司或银行类有限责任公司都必须这样做。除非瑞典公司注册处（Swedish Companies Registration Office）就特殊情况给予豁免，否则，任何瑞典公司的董事总经理及至少一半董事都必须居住在欧洲经济区（EEA）之内。此外，如果公司在瑞典有一定数量的雇员，并受到某工会的集体协议约束，那么，雇员便有权任命董事和副董事。雇员董事的人数不得超过普通董事的人数。雇员任命的董事的权利和责任基本上与股东任命的董事的权利和责任相同。

机构投资者和其它公司往往控制著瑞典上市公司的大多数表决权。按照规则，股东会议的决议案需要获得半数以上票数的大多数赞同，才能获得通过。不过，某些决议案需要获得更大比数人的通过。下列修订案通常需要-股东会议上的所有出席股东通过，并代表了公司全部已发行股份的至少90%：

- 1) 削弱现有股东获得盈利或其它资产的权利；
- 2) 限制公司已发行股份的可转让性，或改变已发行股份之间的法律关系。

在新发行股份的情况下，现有股东具有优先认购权，以认购新股。关于现金和抵消问题，于某些情况下，股东的决议案或公司章程的规定可以解除这些权利。

2005年公司法规定，所有的股东都可以全面行使其表决权，除非公司章程另有规定。少数权益股东（即持有的股份不少于任何瑞典公司全部股份的10%）具有某些少数权益权利，以保护他们的权益。

瑞典的企业管治守则则是根据2005年公司法及瑞典盛行的自我监管传统而制成的。该守则适用于所有在瑞典受监管市场上市的公司，当中主要涉及企业管治的组织、管理机构及其工作程序以及这些机构之间的相互接触。该守则并不涉及公司所有人

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自1998年以来，Niclas Rockborn一直在Gernandt & Danielsson Advokatbyrå KB律师事务所执业，而且从2005年起，便成了合伙人。他的履历包括2002年5月曾获派往英国Slaughter and May律师事务所作交流。Rockborn的主要工作领域是银行和金融法，专门研究投资基金、衍生工具和金融法规。他代表多家瑞典和外国金融机构，当中包括可转让证券集体投资计划（UCITS）基金的基金经理、对冲基金经理、瑞典和外国的银行及投资公司。

Rockborn获不同外部排名机构高度评价，这包括Chambers & Partners的欧洲2009年版银行与金融类别（4级），以及PLC Which Lawyer? 2009年版的投资基金类别中获评为高度推荐的律师。

作为瑞典律师协会（Swedish Bar Association）和国际律师协会（IBA）的会员，Rockborn操流利瑞典语和英语，曾在美国托斯卡纳亚利桑那州大学（1997年-1998年）和乌普萨拉大学（1992年-1998年）接受教育。

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自1997年以来，Charlotta Falkman一直在Gernandt & Danielsson Advokatbyrå KB律师事务所执业，而且从2007年起，便成了合伙人。她的履历包括曾在瑞典地区法院担任副法官（1996年-1997年）以及在瑞典Vinge律师事务所当见习律师（1995年）。

在诉讼和仲裁事务的执业，Falkman在担任国际仲裁法律顾问方面经验丰富。她的执业范围涉及临时诉讼程序及从属于斯特哥尔摩商会仲裁院仲裁条例的诉讼程序。Falkman亦已获任命为仲裁员。

在合并和收购事务的执业情况，Falkman对国内和国际交易都很有经验。她的执业经验还包括多宗跨国房地产交易。在公司法执业方面，Falkman经常协助合资企业进行合作项目及起草股东协议和其它合作协议。

除了是瑞典律师协会（Swedish Bar Association）和国际律师协会（IBA）的会员外，Falkman也是斯德哥尔摩青年仲裁员（Young Arbitrators Stockholm, YAS）理事会的会员，这是从属于斯特哥尔摩商会仲裁院（www.sccinstitute.se）的一个协会。Falkman操流利瑞典语、英语和法语，曾在洛桑大学（1993年-1994年）和乌普萨拉大学（1988年-1995年）接受教育。

之间的权力分割。正如其它国家的类似守则一样，瑞典守则基于“遵守或解释”的原则。这意味着任何公司都可以偏离守则的规定，而并不造成违反守则。不过，有意偏离守则规则的公司必须解释其偏离守则的原因。

敌意收购的障碍

目前没有禁止外国人或外国单位收购瑞典公司的股份。正如文章开始时提到的，瑞典公司的股份可以分为不同类别，具有不同的表决权，这样做实际上可以阻止敌意收购的成功。公司上市时，初期股东往往保留著具有表决控制权的股份。

雇佣概况

根据1982年雇佣保护法（Employment Protection Act 1982），如果出售全部或部分业务（即并非出售股份的情况），业务的买方须自动接管雇员，条件是雇员不反对那样的安排，于转让当天仍然有效的雇佣协议将会转让给买方。业务的买方将（与卖方

共同）承担转让之前雇佣协议已产生的任何金钱责任。这些规则是以欧洲共同体法律为基础的。

监督

瑞典银行受到瑞典金融监管局（Financial Supervisory Authority, FSA）的监督。金融监管局的宗旨在于促进金融体系的稳定和效率，同时确保对客户/零售有效的保护。金融监管局负责为银行和其它金融机构发出牌照，同时对他们进行监督。如果金融监管局发现某机构的运作不健全，或者该机构违反法律或法规，便会施加行政处罚，如发出纪律谴责、警告、罚款和最终吊销营运牌照。

投资规范

外国实体收购瑞典的企业业务，一般不会受到任何限制。

瑞典银行运作以所有权与借贷活动不混淆的原则为基准，从而避免利益冲突。因此，银行在面对交易对手时，具有独立的决策能力。

关于评估任何所有人是否适合拥有银行或金融机构的合资格持股量，以欧共体法律为基础的《银行和融资业务法》（Banking and Financing Business Act）中载有具体规定。合资格持股量是直接或间接地拥有一个业务单位，其持股量占股本、所有表决/参与权益的10%或以上，或者使该名所有人可以对业务单位的管理发挥重大影响。

这些规则意味著，只要在收购之前获得金融监管局的同意，就可以直接或间接地收购银行股份，而致使收购方获得合资格持股量。上述也适用于会导致合资格持股量增加的收购，增幅可达或超过股本或者所有股份表决股本的20%、30%或50%，或导致有关业务单位成为附属公司。

如果收购方被视作适合对银行的管理发挥重大影响，而且相信预期的收购是财力雄厚的，那么，金融监管局便会授权有关收购为合资格收购。

当评价是否授权进行合资格收购时，金融监管局也会考虑到收购方可能会对银行的业务及其声誉和财政实力所造成的影响。金融监管局还会考虑到收购之后成为银行董事会成员的人或担当银行董事总经理的人是否合适，包括他/她是否具备足够的洞察力和经验参与银行的管理，而且也会考虑到他/她是否适合担当这样的职务。

最后，金融监管局还会考虑到是否有理由相信收购方可能会以抵触《银行和融资业务法》的方式阻碍银行的运作。

如果银行意识到转让其股份会导致出现合资格持股情况，那么，银行须立即通知金融监管局有关收购。同样地，如果银行意识到撤出其股份投资会导致少于上述的持股量，那么，银行亦须立即通知金融监管局有关收购。另外，如果任何法人拥有银行股份的合资格持股量，它须立即将银行管理层的变更上报给金融监管局。

最后，在某些情况下，金融监管局可能会颁令要求所有人出让其部分股份，从而导致其之后的持股量不再构成合资格持股量。

合并规范

以欧共体法律为基础的2008年《竞争法》（Competition Act 2008）要求某些合并和收购必须通报瑞典竞争管理局（Swedish Competition Authority）。在某些情况下，斯德哥尔摩地区法院（Stockholm District Court）可能会禁止某些已通报的交易。

2008年《竞争法》内规范合并的规则适用于下列集中：

- (1) 两个或以上的之前独立业务单位进行合并；或
- (2) 收购任何业务单位全部或部分控制权。

该法也适用于设立全面运作的合资企业。

规范合并的规则适用于所有的情况，条件是：1）有关业务单位在瑞典的上一个财政年度的总营业额超过10亿瑞典克朗（1.44亿美元），而且 2）至少2个有关业务单位在瑞典的上一个财政年度的营业额各自都超过2亿瑞典克朗。瑞典规范合并的规则其中一个负面的先决条件是欧共体合并规章（EC Merger Regulation）并不适用。

如果买方属于一个由多家公司组成的集团旗下，它们受到共同控制或者以其它方式联系，则该集团的总营业额将被视为买方的年度营业额。如果买方受到两家或以上公司的共同控制，当计算买方的营业额时，就会把“母”公司属于的每个集团的营业额包括在内。至于对象而言，只有业务单位或转让业务活动的营业额才是有关的（而与卖方的营业额无关）。

对于部分收购而言（如收购任何公司的一些股份，而不是所有股份），合并控制规则只适用于交易能够使买方对收购对象发挥决定性影响力。因此，规则并不适用于已经控制某家公司的人去收购那家公司的更多股份。不过，规则的确适用于从共同控制到单独控制的交易，因为在这样的情况下，一种形式的决定性影响力（共同控制）由另一种形式（单独控制）取代。

合并和收购行为的监管

自2006年7月1日起，2006年《瑞典收购法》（Swedish Takeover Act 2006）载列了瑞典的收购规则。斯德哥尔摩纳斯达克OMX交易所于2009年10月1日发布的“关于股份收购公开要约的规则”对这些规则进行了补充（这是实施“欧共体收购指令”（EC Takeover Directive）的结果）。

此外，关于要约文件的某些规定，在1991年《金融票据交易法》（Financial Instruments Trading Act 1991）中有所阐述，其中包括实施了欧共体招股章程指令（EC Prospectus Directive）。值得注意的是，本文描述的收购规则和规章中，大部分也适用于其股份在瑞典其它受监管市场上市的公司。瑞典工商证券交易所委员会（Swedish Industry and Commerce Stock Exchange Committee, NBK）已经发布新的“关于股份收购公开要约的规则”，这些股份是由在第一北方市场（First North）、北欧多边交易设施（Nordic MTF）和Aktietorget交易所上市的公司发行的，有关规则自2010年1月起开始生效。

2006年《收购法》（Takeover Act 2006）、《收购规则》（Takeover Rules）和1991年《金融票据交易法》一般都适用于对在斯德哥尔摩纳斯达克OMX交易所上市的公司股东提出收购要约（不管这样的要约是否由瑞典或外国的法人实体或自然人提出），以按一般条件把其股份转让给要约人。这些规则包括公

开收购在斯德哥尔摩纳斯达克OMX交易所上市的股份，而这些股份不仅是由瑞典公司发行的，在某些情况下也发行给外国公司。

2006年《收购法》和《收购规则》

《收购规则》和2006年《收购法》主要旨在确保目标公司的所有股东获得足够的信息，使他们能够就要约作出知情决策。《收购规则》和《收购法》也力图确保所有同类别股份持有人受到同等的对待，而且被收购公司的董事会乃真诚行事，只为股东的最佳利益着想。

《收购法》主要包括有关强制要约收购要求、被收购董事

NBK已经发布新的“关于股份收购公开要约的规则”，这些股份是由在第一北方市场（First North）、北欧多边交易设施（Nordic MTF）和Aktietorget交易所上市的公司发行的，有关规则自2010年1月起开始生效

会的阻挠措施、雇员获知信息以及被收购公司的公司章程和监督的突破性条款的规定。其它监管收购要约的规定在《收购规则》中也有阐述（下文阐述者除外）。

1991年《金融票据交易法》

1991年《金融票据交易法》包括(其中包括)关于如何进行金融票据交易的规章。当中也包括关于出售属于他人的金融票据的规章，以及关于披露股权信息的规章。《金融票据交易法》特别订出有关分别就公开要约和收购要约而刊发的招股章程和要约文件的规则。

《金融票据交易法》符合国际证券市场的发展，以欧共体法律为基础。

监督

金融监管局监督2006年《瑞典收购法》和1991年《金融票据交易法》的遵守情况。如发现违规情况，金融监管局可以禁止要约进行，并征收高达1亿瑞典克朗（1,440万美元）的“特别费用”。斯德哥尔摩纳斯达克OMX交易所监督《收购规则》的遵守情况，并可以征收高达1亿瑞典克朗“特别费用”的方式实行制裁（如果公司的股份在交易所上市，则可以取消违约方股份的上市资格）。金融监管局和斯德哥尔摩纳斯达克OMX交易所都将它们的部分监督角色交给瑞典证券理事会（Swedish Securities Council），这是一家私人机构，在瑞典股票市场担当一定角色，包括有权就2006年《收购法》和《收购规则》的某些规定批出豁免权，并且对《收购规则》有解释权。如果公司不遵守瑞典证券理事会的裁定，斯德哥尔摩纳斯达克OMX交易所可以实行制裁。瑞典证券理事会以英国的收购和合并小组（Panel on Takeovers and Mergers）为效仿蓝本。瑞典证券理事会的意见会在其网站公开（出于机密性的考虑，也有某些例外情况）。

瑞典证券理事会的影响力并不单单局限于收购活动。瑞典证券理事会也会发表声明，概括阐述一些瑞典的良好股票市场惯例。不过，它没有法定权力强制市场执行其意见，也没有法定权力要求公司在这方面向其咨询意见。