



Fondbolagens förening

SWEDISH INVESTMENT FUND ASSOCIATION

Guidelines for fund management companies' shareholder engagement

Adopted on 13 February 2002 and most recently revised on 13 May 2019.

Introduction

The following Guidelines for fund management companies' shareholder engagement apply to the Association's member companies. The management duties of fund management companies include representing the funds, on behalf of the unit holders, on owner issues with the aim of protecting the joint interests of the unit holders. This means the best possible return in light of the fund's investment strategy and risk and, where appropriate, special criteria that have been established for the fund.

Corporate governance involves allocation of roles and responsibilities between owners, the board of directors and company management. Sound corporate governance means that a company is managed sustainably and responsibly. Shareholder engagement refers primarily to the relationship between a company's owners and its board, and can be defined as the owners' way of exercising influence and control. The Guidelines for shareholder engagement are limited to the fund management companies' roles and responsibilities as owner representatives for the fund unit holders.

In these Guidelines, "funds" means both UCITS funds and non-UCITS funds and "fund management company" means managers of both UCITS and non-UCITS funds.

The Guidelines are divided into two parts: one addresses principles for shareholder engagement and the other addresses the manner in which the Association recommends that fund management companies exercise their shareholder engagement. Where the Guidelines exceed requirements in law and other statutes, the "comply or explain" principle applies since the conditions for different fund management companies can vary, for example in terms of organisation and size.

Background

The Guidelines were adopted by the Board of the Swedish Investment Fund Association on 13 February 2002 and have been revised on a number of occasions, most recently on 13 May 2019. The Guidelines have been adapted to shareholder engagement legislation which entered into force on 10 June 2019 and which implements Directive (EU) 2017/828 of the European Parliament and the Council amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

The Swedish Investment Fund Association was one of the initiators of the Swedish Corporate Governance Code, which entered into force on 1 July 2015. The Association is one of the main bodies in the Association for Generally Accepted Practice in the Securities Market, where the Swedish Corporate Governance Board is tasked with administering the Code.

The Swedish Investment Fund Association has also adopted the Swedish Code of Conduct for fund management companies which entered into force in 2005. The Code contains overarching rules regarding governance of fund operations, sound ethics, shareholder engagement, management of conflicts of interests, etc. These Guidelines are intended to provide further guidance to fund management companies with respect to shareholder engagement.

In addition, the Association is a member of the European Fund and Asset Management Association, EFAMA, which in 2017 adopted the EFAMA Stewardship Code, which is implemented in Sweden through these Guidelines.

Fund management companies' shareholder engagement in portfolio companies

The purpose of shareholder engagement by fund management companies is protecting the joint interests of unit holders regarding owner issues and contributing to sound long-term development of the financial markets.

An important difference for fund management companies compared with other categories of owners is that the capital in open funds is freely available for investment and withdrawals and that there must always be preparedness to buy or sell shares. A fund management company may not acquire shares which would give the fund management company a significant influence over the management of a company.

In relation to shareholder engagement, consideration must also be given to the fact that the conditions vary for different fund management companies, among other things due to the size of the fund's assets. However, it is the Association's view that smaller fund management companies may also play an important owner role, for example as major owners in small companies or in collaboration with other owners. The Association also believes that shareholder engagement is relevant irrespective of whether the fund is managed actively or passively and irrespective of whether specific sustainability issues are taken into account.

A fund management company may exercise voting rights on behalf of the fund but may also, as an expression of its shareholder engagement, choose to sell shares in a company, which may send a strong signal that change is deemed necessary.

The unit holders' joint interests

According to fund legislation, the fund management company represents the unit holders on all issues concerning the fund, including on owner issues,

and as part of the duty of managing a fund, includes acting exclusively in the joint interests of the unit holders. This means that the fund management company must act, also on owner issues, with the aim of achieving the best possible return for the unit holders taking into consideration the fund's investment strategy and risk and, where appropriate, special criteria that have been established for the fund. The fact that shareholder engagement must be exercised exclusively in the joint interests of the unit holders means that other interests of the fund management company or an associated company must at all times give way in the event of any conflicts of interest. These issues are addressed in the Swedish Code of Conduct for fund management companies.

Principles for shareholder engagement

Requirement of principles with certain content

Fund legislation provides that a fund management company which manages a fund whose assets are invested in shares that are admitted to trading on a regulated market and which have been issued by a company within the EEA must adopt principles for its shareholder engagement with respect to such shares. The principles must be published on the fund management company's website. The requirement for adopting principles with certain content is of the nature of "comply or explain".¹

Principles for shareholder engagement is the term which should be used by fund management companies with the aim of being clear towards investors.

The principles should cover all shares included in a fund that is managed by the fund management company, i.e. also shares that are not admitted to trading on a regulated market and shares that are admitted to trading on a market outside the EEA.

The fund legislation provides that the principles for shareholder engagement must demonstrate how the fund management company integrates the shareholder engagement in its investment strategy. The principles must describe how the fund management company²

- monitors relevant issues regarding portfolio companies' strategies, financial and non-financial results and risks, capital structure, social and environmental impact and corporate governance;
- maintains dialogues with representatives of portfolio companies;
- exercises voting rights and other rights attached to the shareholding;

¹ Chapter 2, sections 17 h, 17 j and 17 k of the Investment Funds Act (2004:46) and Chapter 8, sections 27 a, 27 c and 27 d of the Alternative Investment Funds Managers Act (2013:561).

² Chapter 2, sections 17 h of the Investment Funds Act and Chapter 8, sections 27 a of the Alternative Investment Funds Managers Act.

- cooperates with other shareholders;
- communicates with relevant stakeholders in portfolio companies; and
- manages actual and potential conflicts of interest.

In addition to statutory requirements, the following issues should be included in the principles for shareholder engagement

- the fund management company's principles regarding its own participation in the work of nomination committees;
- how questions concerning inside information are handled in relation to the shareholder engagement;
- the situations in which the fund management company acts in the companies in which the fund owns shares, and the fund management company's escalation procedure³,
- whether voting advisers are used;
- the fund management company's principles for stock lending and how they are applied in order to perform the engagement where appropriate, particularly at general meetings of the companies that have issued shares that are included in the fund;⁴ and
- other principles applied by the fund management company that are of material significance for the shareholder engagement.

Strategies for establishing when and how voting rights are exercised

Fund legislation provides that the fund management company should establish internal rules setting out the strategies to be applied when the company decides when and how voting rights are to be exercised. The strategies must contain information about the company's measures for monitoring relevant corporate events, measures for ensuring that the voting rights are exercised in accordance with the goals and investment strategy of the relevant investment fund, and measures to prevent or manage conflicts of interest that arise when voting rights are exercised. A summary of the strategies must be available to the investors as well as information regarding measures taken based on the strategies.⁵

Report on the monitoring of the shareholder engagement

Fund legislation provides that a fund management company shall, each year, report how the principles for shareholder engagement have been applied. The report shall be published on the fund management company's website.

³ For guidance, see EFAMA's Stewardship Code Principle 3 where examples of escalation procedures are provided.

⁴ See Chapter 31, section 54 a, first paragraph, item 4 FFFS 2013:9 and Chapter 12, section 15, first paragraph, item 4 FFFS 2013:10.

⁵ Chapter 15, sections 9-10 FFFS 2013:9 and Article 37 Commission Delegated Regulation (EU) no 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision.

The requirement to issue an annual report with certain content is in the nature of “comply or explain”.⁶

The report should cover all shares included in a fund which is managed by the fund management company, i.e. also shares that are not admitted to trading on a regulated market and shares that are admitted to trading on a market outside the EEA.

The fund legislation provides that the report must include⁷

- a general description of the fund management company’s voting behaviour in portfolio companies;
- an explanation of the most important votes;
- details regarding issues on which the fund management company has used advice or voting recommendations from a voting adviser; and
- the way in which the fund management company has voted at general meetings of portfolio companies; however, votes that are insignificant due to the subject or the size of the shareholding need not be reported.

Recommendations for fund management companies’ shareholder engagement

The Association recommends that the fund management company exercises voting rights in a duly considered manner at general meetings of companies in which the fund is a shareholder, where doing so is justified based on the unit holders’ interests and technically possible.

The Association recommends that the fund management company endeavours to ensure that principles for the work of the nomination committee are reported openly and that this work functions effectively.

The Association recommends that the fund management company endeavours to ensure that the companies in which the fund invests are managed sustainably and responsibly, have well composed boards of directors with skills, diversity and gender equality and that they otherwise satisfy the requirements stated in the Swedish Corporate Governance Code.

The Association recommends that the fund management company always endeavours to ensure that companies in which the fund invests act in accordance with relevant codes and guidelines and otherwise in accordance with accepted practice on the securities market, and report their work regarding the environment, corporate social responsibility and governance.

⁶ Chapter 2, sections 17 i, 17 j and 17 k of the Investment Funds Act and Chapter 8, sections 27 b, 27 c and 27 d of the Alternative Investment Funds Managers Act.

⁷ Chapter 2, sections 17 i of the Investment Funds Act and Chapter 8, sections 27 b of the Alternative Investment Funds Managers Act.

The Association recommends that the fund management company monitors the companies in which the fund invests in order to be able to identify, at an early stage, the need for dialogue with companies.

The monitoring should take place regularly and the fund management company should, as far as possible, assess whether the portfolio company's board, committees and management are effective and that directors contribute with sufficient control and governance. If the fund management company notes shortcomings in the portfolio company, the fund management company should draw the attention of directors or senior management of the portfolio company to these.

Fund management companies should regularly assess the affects of any escalation procedures.

The Association recommends that fund management companies consider collaborating with other shareholders where appropriate and in the joint interests of the unit holders. Collaboration with other investors may sometimes be the most effective method for the exercise of shareholder engagement by a fund management company.

The Association recommends that the fund management company has a designated contact person for owner issues.

List of sources

- The Swedish Investment Fund Association, The Swedish Code of Conduct for fund manages, 2015
- The Swedish Corporate Governance Board, the Swedish Corporate Governance Code, 2016
- EFAMA Stewardship Code, 2017
- EFAMA Code of Conduct for the European Investment management Industry, 2006
- Investment Funds Act (2004:46)
- FFFS 2013:9 Investment funds
- Alternative Investment Funds Managers Act (2013:561)
- FFFS 2013:10 Managers of alternative investment funds
- COMMISSION DELEGATED REGULATION (EU) no 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision