Report from the Committee appointed to propose forms for compensation to the members of the Board of Directors of Investor AB

The Members of the Committee and the Scope of the Mandate

At the annual general meeting of Investor AB (Investor) on May 19, 1994 it was decided that the Board of Directors of Investor, possibly assisted by outside expertise, should investigate the matter of special remuneration to board members in addition to the fees decided upon by the shareholders meeting.

At the request of the Board of Directors of Investor Carl Axel Petri, President of the Gota Court of Appeal, Sten Wikander, MBA and former CEO of the 4th AP-fund, and Carl Johan Åberg, CEO of the 1st, 2nd and 3rd AP-fund, declared themselves willing to form part of a committee appointed to consider various matters relating to remuneration of board members of Investor. Carl Axel Petri was appointed chairman of the Committee. Hans Wibom, a member of the Swedish Bar, has carried out the duties of the Committee's secretary.

The mandate of the Committee was summarized in the "Appointment Letter" of October 5, 1994 as set out below:

> The task of the Committee is to present recommendations regarding the decisionmaking procedures and the forms of remuneration to the board members of Investor. The Board of Investor thereby wishes to find such solution which preserves the confidence of the shareholders of Investor, the market and the public.

Background

The General Meeting of Investor decided in 1993 that the Board of Directors were to be awarded a fixed sum of SEK 1.080.000, and a bonus, equivalent to 0.25 % of the dividends resolved by the General Meeting in 1994. The bonus was later fixed at SEK 1.802.800 for the entire Board. In connection with the General Meeting in 1993, the Board of Directors decided to award special remunerations for 1993 to some of the Board Members in accordance with the below:

- the Chairman Dr Peter Wallenberg was awarded SEK 7.200.000 plus a subsidized car;
- the two vice Chairmen, Bo Berggren and Anders Scharp, were each awarded SEK 2.000.000; and
- the Board Member Erik Belfrage was awarded SEK 750.000.

The Board Members concerned did not participate in the decision on the special fees.

In accordance with the recommendations of the Swedish Industry and Commerce Stock Exchange Committee ("NBK") the fees and special remunerations paid out to the Board Members of Investor were disclosed in the 1993 annual report of Investor.

Before the 1994 General Meeting of Investor, the Swedish Shareholders' Association ("SSA") and others wrote to the Board of Investor to ask about the fees and remunerations that had been paid out to the Board Members. Questions were also raised, and answers were provided by the managing director Claes Dahlbäck, at the General Meeting in May 1994.

The General Meeting in 1994 resolved that a fee, in the form of a fixed amount of SEK 2.880.000, should be paid out to the Board of Directors, to be split between the eleven Directors on the Board in a manner that the Board were itself to decide upon. No bonus were to be paid out. The Board of Directors decided before the General Meeting in 1994 that special remunerations should be paid out, to compensate for assignments in addition to the work on the Board, to the same persons and with the same amounts as in 1993, regardless of whether these persons were re-elected to the Board or not. The decision of the Board was announced at the General Meeting.

In June 1994 the SSA wrote to the (Swedish) Securities Council (the "Council"), requesting the Council to try whether Investor's treatment of the compensation matter was in accordance with applicable rules and which rules ought generally to apply to compensation to board members over and above fees decided upon by the shareholders meeting. Investor replied in a letter dated August 10, 1994. The Council issued a statement (1994:7) declaring, i.a., under the heading "Considerations":

> "The Swedish Companies Act does not contain any rules regarding the determination of directors' fees. It follows from the legislative history that it was contemplated, as under the Norwegian Companies Act, to provide that the fees to be paid out to the directors on the board should be decided upon by the general meeting. This was, however, considered to be clear even in the absence of an explicit rule on the matter."
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> "The rules in the Swedish Companies Act on partiality does not impede the board's rights to conclude an agreement with a board member, providing that the board member shall on behalf of the company carry out assignments that is beyond the work on the board of the company. The partiality rules do only provide that the board member in question may not take part in the handling of the matter.
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> In order for a decision of the board regarding remuneration, beside what has been decided by the general meeting, to individual board members not to be in conflict with the partiality provisions in the Swedish Companies Act or any provision in the articles setting out the general meetings' authority to take decisions, the remuneration must concern other assignments than such that goes with the directorship."

"From the viewpoints that the Securities Council has to take into account, it is important that decisions regarding compensation to board members are taken in such a manner that the public's confidence in the stock market is maintained. This requires that the rules in the Swedish Companies Act on the division of powers between the various bodies of the company are followed. It cannot, however, be considered to be a task for the Securities Council to undertake a thorough investigation of an individual case as the one at hand.

As regards the more general issue that has been raised in the letter (from SSA), the council takes into account that, following the recommendation that has recently been decided upon by the NBK, rules on the provision of information regarding remunerations paid out to board members, beside the director's fee, have already been provided for. The general meeting thereby has the opportunity to bring such remunerations up for discussion and, if the general meeting finds this appropriate, decide upon other decision-making procedures for the future. Beside the aforementioned, the Securities Council does not consider that it should make any general statement on the question raised."

The Performance of the Committee's Mandate

As a basis for the Committee's considerations and recommendation the Committee has met with and interviewed representatives of the shareholders of Investor, the Stockholm Stock Exchange and the SSA, fund managers, members of the Board of Directors of Investor, Board Members of other listed companies and Sir Adrian Cadbury, who i.a. serves as Chairman of The Committee on the Financial Aspects of Corporate Governance, the publications of which include the so called Cadbury Report. As a further basis for its work, the Committee has gathered material relating to fees and other remuneration to Board Members of other companies listed on the Stockholm Stock Exchange and it has studied some material from other countries.

Legal considerations

As regards the legal considerations implicit in the Committee's work, the Committee has reached the same conclusions as the Swedish Securities Council presented in the aforesaid statement.

It thus appears to be clear that the fees for the work performed by the Board Members of Investor in their capacity as board members shall be decided upon by the General Meeting. This follows already from the Articles of Association of Investor. It is perfectly possible to decide upon an aggregate amount for the whole board to be distributed by the board amongst its members.

The Swedish Companies Act does not prohibit the entering into of an agreement between the board and a certain board member that such board member shall,

against special remuneration, perform work outside the scope of her duty as a board member. However, the concerned board member should - for partiality reasons - not participate in that decision.

Under the provisions of the Swedish Companies Act, the board is responsible for the company's organisation and for the administration of the company's affairs. It is also the board's responsibility to ensure that the internal organisation relating to book keeping and the management of funds includes a satisfactory control. The Companies Act does not include a more specific statement on the board's tasks. In the absence of special instructions from the shareholders meeting or instructions set out in the Articles of Association it would appear to be the board's responsibility to decide upon which tasks shall be included in the appointment to act as board member. In some cases it would seen comparatively easy to judge if a certain task falls within or outside the scope of the appointment. In other cases it can be very difficult to make that judgment. This matter is further dealt with under the heading "The Committee's Considerations".

An International Outlook

From an international point of view the matter on board members' remuneration is but one of many issues relating to the governing and administration of large companies which have been intensively debated during recent years in particularly the United States and the United Kingdom but which debate has now to some extent reached Sweden. The debate, which today is often carried on under the heading corporate governance, is based upon the desire to effectively utilize the business community's resources. Such an allocation of resources is dependent upon a continuous review of how resources are spent by individual companies and by industry and commerce as a whole. Such review is largely carried out by the market forces but also by the shareholders in individual companies.

In most countries, the general meeting of shareholders has an exclusive right to decide upon strategic matters relating to the company's financing and administration. Mostly, the shareholders meeting also appoints all, or at least the majority, of the board members. On this basis the corporate governance debate has been focused i.a. on the change over time in the ownership structure and how this affects the exercise of ownership in the companies. Concerns have been expressed that the increasing institutionalization of ownership might lead to an ownership structure dominated by institutions which manage portfolios and which do not have an incentive to actively participate in the administration of the companies. On the same basis, the debaters have come to agree upon the importance of having boards composed in a way which makes it possible for them to act as a balancing force to a strong management while at the same time providing a forum where the management can try new ideas. In order to fulfil these functions board members with various types of competence are needed and they must be willing to spend considerable time on their commission and to take upon themselves the responsibility inherent in acting as board members in a large company. This, in turn, makes it necessary for the companies, i.e. in the end the shareholders, to offer the board members competitive remuneration.

Some differences can be found between the Swedish and the Anglosaxon corporate governance structures. In Sweden both the legislator and the market participants make a distinction between the rules and responsibilities of the shareholders meeting, the board and the management. Anglosaxon practice does not make the same sharp distinction between the board and the management as Anglosaxon countries have executive directors, i.e. board members which also participate in the day-to-day management of the company. It is clear that the Swedish distinction between responsibilities and tasks is disappearing and we are approaching an Anglosaxon system. One example of this is the chairman of the board, often the former managing director of the company, which spends a full work week performing his duties. Investor is itself an example of the development of the Swedish model by making certain board members responsible for certain "sectors" including certain companies in which Investor has a decisive influence. It can perhaps be said that the division of labour within Investor's board hereby is approaching the Anglosaxon system with executive directors.

Interviews

At the interviews performed by the Committee it has been made clear that the forms for deciding upon remuneration to the board and also questions regarding the size of such remuneration attract great interest and much discussion amongst board members and others connected to the stock market. Most interviewees of the Committee have stated that compensation to board members should as far as possible be decided upon by the shareholders meeting. Most have, however, considered that it should be possible for the board to commission certain board members to perform services which clearly lies outside the scope of the mandate to serve as board member when the appointed board member has special competence or is otherwise especially suited to perform the service. In such cases the board should also be capable of deciding upon special remuneration to the board member performing the service. It is desired that such remunerations should be openly accounted for. Some people have suggested that the shareholders meeting should retroactively approve of remuneration to board members for special services.

Although it is not included in the Committee's mandate to have a view on the size of the fees to board members several of the interviewees have raised this question. Some think that the aggregate of the fees and special remuneration awarded some board members of Investor and some other companies is too high, while others more generally think that fees to board members in larger Swedish listed companies are too low, taking into account the necessary work and the demands for competence and knowledge. The crucial role played by the chairman of a board in the work performed by the board and also in relation to the management has been pointed out.

Some interviewees have criticized that board members of Investor have received special remuneration for work from which associated companies of Investor have partly benefitted, meaning that those companies should compensate such work. Others have found it reasonable that an investment company compensates board

members for concentrating on the ownership functions and actively watching the investment company's interest in a certain sector and reporting on the development therein to such company's board.

Some interviewees have noted that although the fees to the board are finally decided upon by the shareholders meeting the level must be such that the prospective board member accepts her appointment. This leads us naturally to how the matter of the fees are prepared for the shareholders meeting. Some people have stated as their view that there ought to be a nominating committee and/or a remuneration committee which prepares matters relating to nomination and remuneration and which discusses the matters with prospective board members. A representative of such committee should then present the result of the committee's work at the shareholders meeting. Others have been more negative to formal nomination or remuneration committees but have shared the views that suggestions as well regarding appointment of board members as the remuneration of such members which are presented at the shareholders meeting should be cleared in advance, at least with larger shareholders.

Fees and Other Remuneration to Board Members in Swedish Stock Market Companies

From the information available to the Committee regarding fees and other remuneration to board members in Swedish stock market companies it can be ascertained that in about 1/5 of the companies, or around 40 companies, special remuneration over and beyond the fees decided upon by the shareholders meeting have been paid. About 60 board members in the aggregate have received such remuneration. The statements are primarily based upon the information which stock market companies shall give in their annual reports in accordance with the recommendation issued by NBK in November 1993.

It has not always been entirely clear from the information given in the annual reports for 1993 how large the special remunerations have been or how they have been distributed. In some cases it appears that the remuneration pertains to special professional services while in other cases it appears that the special remuneration pertains to more general services for the company. In some cases the remuneration is titled consultancy fee. In other cases the board member also receives salary, as managing director or in another position. In some companies the board member (often the chairman) receives a pension in addition to his fee as board member resulting from the board member previously having been employed by the company. It happens that board members in addition to the fixed fee receive a bonus. It is also clear that the fees received from Swedish and foreign subsidiaries vary quite a lot between various companies. The Committee has sought to ascertain whether fees awarded board members in other countries vary from those awarded in Sweden. As the amount of work which is carried out as well as the size of the fees vary so much, it is difficult to make a general conclusion from the material.

The Work Performed by a Board Member

It has been made clear at the interviews that the scope and emphasis of the work performed by board members vary quite a lot between different companies, depending upon various factors such as the size of the company, its business, traditions etc. For an investment company it is important to follow the development in the companies and the sectors wherein the investment company has invested or intends to invest. This task can be performed by employees of the investment company or by its board members. Several Swedish examples can be found of board members nowadays having more extensive tasks than they used to. This is especially true for the chairman who often has a more or less continuous contact with the managing director. In other companies, e.g. Investor, also other board members these days have such extensive duties that they can more or less be regarded as working board members. This means that Swedish companies now approach the Anglosaxon system with executive directors employed by the company in a management position with executive and supervisory responsibilities. However, there are – also for Investor – basic differences in management and responsibilities between a system with executive directors and working directors in a Swedish company. While the working board member may have a considerable work load, it has still sprung from the board's managing and controlling functions – not an apprehension of the responsibility for the daily business.

It is up to each company to, within the framework provided by the Swedish legislator, organize the work of the management and the board in the way best suited to the specific company. The question of remuneration must not be a hindrance for an effective and efficient organization seeking the greatest possible good for the company and its shareholders. Obviously, it is the shareholders which through their choice of board, determination of fees and by remaining shareholders of the company decides on how the work shall be performed in the long run.

The Committee's Considerations

The Committee's mandate relates to how decisions shall be made regarding and the forms for compensation to the members of the board of directors of Investor. The matter is of interest to listed companies generally.

It is the Committee's opinion that when considering fees and possible special remunerations to board members, the scope of the board's work, i.e. what is included in the appointment as board member, must firstly be determined. Except for what is set out in statutes and what follows from commonly agreed upon principles regarding the scope of a board's work and the division of duties and responsibilities between the board and the managing director, it is the Committe's view that it is up to the board to decide upon how the work within the board shall be performed, i.e. how it shall be divided between the various board members and how deeply these shall be engaged in the company's business. These matters can have different solutions depending upon the company's business but also depending upon the board's constitution and the competence of the various board members. It seems likely to the Committee that the business of a typical

investment company with a decisive influence in a number of other companies makes other demands on its board members than a typical industrial or commercial company.

In the Committee's opinion the fee awarded the board members should principally compensate the board member for all work which is *foreseeable* for the period for which the board member is appointed and compensated. Certain exceptions can be made in special cases, e.g. when a board member is contracted by the company as a consultant to perform work which is within his professional competence and which cannot be considered to fall within the scope for the work to be performed by the board. The Committee can also envision cases where a board member may be engaged for unforeseen work, e.g. research or negotiations for which the board judges the member to be particularly suited. In such cases the board may – with due regard to the rules on partiality – enter into an agreement with an individual board member to perform such work for market rate remuneration.

The basic principle should, however, be that all work which is foreseeable taking into account the board's decision on how the work shall be performed shall be considered to be included in the appointment to serve as board member and should only be compensated by the fee decided upon by the shareholders meeting. This leads to the conclusion that the board should make it clear how the work will be performed and its scope in order to make it possible for the shareholders meeting to determine the reasonableness of suggested fees. It may, however, be difficult to determine in advance how the work shall be performed for the succeeding year. This is really a task for the board which is appointed at the meeting. If it is known already at the shareholders meeting how a majority of the shareholders and/or the board members expected to be elected think that the work shall be performed it may, however, be possible to paint a broad picture of whether special tasks are intended to be performed by certain individual board members or the chairman in addition to what can be considered normal.

If it is decided by the board that certain members shall have special duties in addition to what can be considered normal, this must lead to a differentiation of the fees. In our opinion it is important to make flexible solutions on board members' compensation possible. Unless that is done, there is a risk that board members which are given special tasks to perform for the company would not accept to be appointed board members but would rather be hired as outside consultants. In the Committee's view it is important that qualified people are willing to serve as board members and that the level of the fees awarded for such work is such that it does not encourage circumvention. The compensation awarded board members must not become a hindrance to recruiting competent board members or lead to irrational decisions which in the long run may hurt the company's and the shareholders' interests.

It may occasionally be suitable that the shareholders meeting gets to decide upon firstly a basic fee for each board member or for the board as a whole, secondly on extra compensation which shall be available to be paid to board members which are given particularly comprehensive tasks within the scope of the work performed as board members. This may apply to the chairman or to members

participating in committees or who otherwise have special responsibilities. Both kinds of compensation can be determined in the aggregate to be distributed by the board amongst its members. The latter form could be decided as a maximum amount up to which the board may distribute fees should it not be clear how much effort the coming years' work will entail. Should this solution be chosen, information on the distribution of the fees amongst the board members and, if applicable, information on how much of the maximum amount that has been used, should then be available to the shareholders well in advance of the coming general shareholders meeting.

It has been made clear during the interviews that it is important that the suggestions regarding the fees which are put forward at the shareholders meeting have been discussed with representatives of at least larger shareholders before the meeting. The Committee also considers it worthwhile that suggestions which are intended to be made at the meeting are available to the shareholders before the day of the meeting. How this matter is handled before a meeting may of course differ from company to company depending not least upon the shareholders structure. Sometimes it may be suitable with a remuneration committee while it in other cases may be preferable with informal contacts between the board of the company (e.g. through its chairman), the management of the company and representatives of the shareholders. In such committee or during such informal contacts the present board and management may have an opportunity to discuss more in detail how the work of the board is intended to be performed and the scope thereof. This in conjunction with prospective board members' expectations on compensation should then form part of the material to be considered when suggesting the level of the fees. It may then be suitable that a representative of the shareholders who has participated in these discussions presents and explains the suggested fees.

The Committee's Recommendation

As far as Investor is concerned the Committee recommends that the basic principle should be that all foreseeable work to be performed by a board member appointed by the shareholders meeting shall be compensated by a fee decided upon by the shareholders meeting. This eliminates discussions on partiality and on the authorities awarded various corporate bodies. Exceptions may be made from the above mentioned principle if the board member performs tasks which clearly fall outside the scope of the appointment as board member and of course also if the member is an employee of the company or a company within the same group or if he receives a pension from such company.

The Committee recommends that the company, without giving away trade secrets or such, openly informs on how the work performed by the board shall be organized and whether the chairman or individual members will be given tasks which are more comprehensive than can normally be expected. Such information is important for the shareholders meeting to be able to judge the level of suggested fees.