Guidance - Governance and Internal Control in listed companies

1. Background
As stated in section 2.15.3 of Nasdaq Stockholm’s regulations for issuers (“the Regulations”) an issuer shall have implemented and maintained adequate systems and routines for provision of information prior to the stock exchange listing, including systems and processes for financial reporting. In order to meet these requirements, the issuer must have established proper governance and internal control. Governance and internal control requirements are further stipulated in The Swedish Companies Act (2005:225) (ABL), the Annual Accounts Act (1195:1554) (ÅRL) and the Swedish Code of Corporate Governance (the Code). A company that aims to be listed on Nasdaq Stockholm must therefore organize its governance and internal control in such a way that they comply with the requirements of these regulations.

As part of the listing process an Exchange Auditor appointed by the company evaluates the company’s governance and internal control activities and procedures for monitoring, to ascertain compliance with the requirements of the regulations. The engagement for the Exchange Auditor is defined by Nasdaq Stockholm AB (“the Exchange”). The evaluation considers the size, industry, complexity, risk profile and regulatory environment (e.g. for companies under supervision of the Swedish Financial Supervisory Authority) of the company in question.

This guideline has been developed for companies preparing for listing on Nasdaq Stockholm and is intended to act as support in the preparatory work prior to listing. The guideline specifies the activities and processes that shall be established to meet the requirements of the Stock Exchange in the listing review. The activities outlined in sections 5.1-5.7 below are deemed central in the Stock Exchange’s assessment of a listed company’s governance and internal control and are therefore included in the Exchange Auditor’s evaluation.

The requirements on governance and internal control are part of the Nasdaq Regulations and hence applies for the full extent of the time during which a company’s shares are listed.

2. What is governance and internal control?
Governance and internal control may be described as a process influenced by the Board, management and other internal stakeholders of a company, designed to provide reasonable assurance that the company is meeting the objectives defined in the following areas:

i. Efficient and effective operations
ii. Reliable reporting
iii. Compliance with applicable laws, regulations and internal policies

Effective governance and internal control comprise a number of components that work together (refer to image below), and is achieved through eliminating, minimizing, monitoring, or ensuring risks pertaining to the company’s overall objectives. This requires identification of significant risks, and subsequent design and implementation of internal guidelines that describe the organizations approach
to manage these risks. Based on this, effective internal controls are designed and implemented throughout the organizations processes.

The organization shall perform ongoing evaluations of the design and operational effectiveness of governance and internal control, and report to the Audit Committee and Board on risk exposure, compliance with relevant regulations and potential control deficiencies and remediating actions taken.

Image 1: Illustrative overview of how the different components (red boxes) of a company's governance and internal control interrelate

3. Where is internal governance and control regulated?
In addition to section 2.15.3 of the Regulations, requirements on governance and internal control in listed companies are stated in ABL, ÅRL and the Code. Below is a brief summary of the requirements;

ABL states that the Board of Directors (the Board) is responsible for the company's overall organization and management, which also includes responsibility for the company's governance and internal control. For companies listed on a regulated market, there are also requirements on the work of the Audit Committee including monitoring the effectiveness of the company’s risk management, internal audit, and internal control over financial reporting.

ÅRL provides requirements on external reporting around corporate governance as well as internal governance and control. Furthermore, ÅRL states that a company must provide a sustainability report disclosing information required for understanding the company's development, position and results as
well as any consequences of its business and operations. The sustainability report shall comprise a description of the company's business model, its sustainability policy and how this has been implemented, as well as any significant risks pertaining to these matters, including the approach to manage these risks.

The Code describes the duties of the Board, including the Board’s responsibility for developing the company's objectives, strategy and guidelines for conduct. The Board is also responsible for ensuring that there are appropriate systems for monitoring and control of the company's operations and its risks. This entails that the Board shall ensure adequate control over the company’s compliance with external laws and regulations as well as internal policies. Furthermore, the Code states that the company shall have formalized procedures for financial reporting and internal control, as well as a description of how the Board monitors that the governance and internal control procedures operates properly. The Code also stipulates that the Board is responsible to annually evaluate the need for an independent internal audit function. Finally, the Code also sets requirements for information to be provided in the corporate governance report.

4. Organization of governance and internal control
The Board has the formal responsibility for the company's governance and internal control, and for determining the company's risk appetite. Further, the Board define the requirements on regular reporting (format, content, and frequency) necessary to enable monitoring and current state assessment of the company's governance and internal control.

The Board shall appoint an Audit Committee or – if this is decided by the Company – the Board as a whole shall constitute the Audit Committee. The Audit Committee shall, without limiting the responsibility of the Board, among other things monitor the effectiveness of the internal control related to financial reporting. The CEO is responsible for the day-to-day management of the company and for ensuring adequate organization of the work related to governance and internal control. This includes responsibility for designing the company’s governance and internal control procedures and for evaluating whether the system for governance and internal control operates effectively.

To properly manage and monitor business opportunities and risks within the company a clear split of responsibilities is required. The CEO, executive management and the business are all responsible for risk management and for maintaining effective governance and internal control. Functions not responsible for conducting business activities may monitor risk-taking and support the business to ensure compliance with internal and external regulations.

If established, the internal audit function acts on behalf of the Board to evaluate governance and internal control throughout the organization.

The external auditor, appointed by the Annual General Meeting, reviews the company's annual report and financial reporting as well as the management of the company by the Board and the CEO. Thus, external audit is not part of the company's organization for governance and internal control.
5. Evaluation of governance and internal control in the listing process

As stated above, a listed company is required to organize its governance and internal control such that that the requirements in the Regulations, ABL, ÅRL, the Code and other applicable regulations are complied with. In assessing the adequacy of a company’s governance and internal control the Stock Exchange deems certain components of governance and internal control as pivotal. These are presented in further detail below and are included in the review carried out by the Exchange Auditor. Hence processes must be always implemented and operating in a compliant manner prior to listing and during which the company is listed.

The company’s size, industry, complexity, risk landscape and regulatory environment will be considered in the Exchange Auditor’s evaluation of the company’s governance and internal control.

5.1 Formalization of governance and internal control procedures

A company must formalize its governance and internal control activities through establishment of internal governing documentation that stipulate procedures for carrying out, at a minimum, the processes and activities described in sections 5.2–5.7 below. These governing documents shall also describe roles and responsibilities for each activity and be established at the required level within the company.

Prior to listing, the company must demonstrate compliance with established governing documents by having performed all the activities described in sections 5.2–5.7 below on at least one occasion. This may be performed within the scope of an annual recurring process, or if not yet established, through an accelerated process.

5.2 Identification of significant risks

The company is required to have an organization wide process for risk identification and assessment in place, based on the company’s business objectives and performed on at least an annual basis. This should lead to identification and documentation of significant risks within different risk categories such as:

- Strategic risks
- Operational risks
- Compliance risks
- Financial risks
- Reporting risks

Identified risks are documented and broken down to a level that enables the organization to manage the risks through elimination, reduction, monitoring or insurance.

The Board and the Audit Committee shall, at a minimum, annually evaluate the company’s risk analysis/risk assessment.
5.3 Internal governing documents
Based on identified risks, internal governing documents such as policies and guidelines are designed and implemented. These documents shall provide a description of the organization’s approach to and management of its risks. In accordance with the Code and other listing requirements, the company is expected to have prepared, established and implemented internal governing documents across areas such as (but not limited to):

- Corporate governance policy
- Finance policy
- Information policy
- Insider policy
- IT policy
- IT and information security policy
- Risk policy
- Sustainability policy
- Policy for transactions with related parties
- HR policy
- Code of Conduct
- Ethical Guidelines
- Finance Manual

5.4 Design of key controls
The company shall have a process in place for determining how risks are to be managed, which is based on identified significant risks and internal governing documents. The process shall lead to design, documentation, and implementation of key controls throughout business processes and IT environments, through which significant risks as identified in step 5.2 above are managed. The question of which business processes that are deemed significant depends on each company’s unique characteristics. Implemented key controls are not limited to processes affecting the process for financial reporting but also for other significant processes such as IT- and information security including crisis- and business continuity plan and compliance with relevant laws and regulations or other processes that are significant for the company. Key controls shall be designed in such a way that the control activity effectively mitigates the risk. The documentation should clearly state how key controls mitigate the identified significant risks.

5.5 Evaluation of the design and effectiveness of the key controls
The company shall have a process in place to evaluate the design and effectiveness of implemented key controls, in order to provide assurance that the governance and internal control system operates effectively. When testing the effectiveness and design of key controls the Company needs to address which individual or function performs the evaluation in order to avoid a situation of self-review. Consequently, it should not be the same individual or function that both performs and evaluates the key control. The process for evaluation shall be documented and ensure that key controls, designed and documented in accordance with section 5.4 above, are evaluated at least annually.
The extent of the evaluation may vary depending on the size, complexity and regulatory environment of the company. An assessment is performed based on the annual risk analysis to decide what components of the internal control should be evaluated, how this is to be performed and with what frequency.

As part of the evaluation of the effectiveness of the internal control, two aspects are taken into consideration:

**Design**: Adequate controls are implemented and are correctly designed документed to mitigate significant risks. Furthermore, controls are sufficiently documented with respect to why, how, when and who should perform the control. Documentation structure may vary but would typically constitute instructions, manuals, process descriptions, templates, etc.

**Effectiveness**: Controls are performed in accordance with the design. To conclude on this, sufficient evidence is required to verify that the control has been performed, by whom and when. Structure and form of evidence may vary but must be clear and detailed enough to allow for understanding by a person not responsible for control performance. This person should, based on the evidence, be able to validate that the control was performed according to the design and documentation.

The results of the evaluation shall also be documented, and documentation should be structured so that follow up is made possible.

5.6 Reporting of outcomes and results of evaluation to the Audit Committee and Board

The Board's formal requirements on continuous reporting of the company’s governance and internal control shall be clearly described in internal governing documents.

In line with these requirements the business shall report to the Board and Audit Committee on the evaluation of key control design and effectiveness. The business must also describe any implemented and/or planned actions to address and remediate identified observations and deficiencies. Further, an assessment should be made that remaining deficiencies do not constitute an unacceptable risk for errors in the financial reporting nor other unacceptable risk for a company listed on main market. Significant deficiencies need to be remedied before a company will be deemed to meet the requirements on governance and internal control. Should the Audit Committee and Board previously have decided on measures to address and remediate observations and deficiencies pertaining to the company’s governance and internal control, the outcome of such measures must also be reported on by the business.

Any discussions or decisions concerning the activities reported by the business shall be clear in the minutes of meeting of the Audit Committee and Board.
5.7 Outsourced activities

The Board is responsible for the company's governance and internal control in its entirety, including any parts of the business outsourced to an external party. Should an outsourced business activity be linked to the company’s provision of information, financial reporting, compliance or other areas deemed significant for the company, governing documents must describe how the company ascertains that the external party maintains adequate and effective internal control for the outsourced activities. Requirements on design and evaluation of the internal control system should be agreed in the contract between the parties.

The same requirements on formalization, processes, documentation and evaluation that apply to activities conducted by the business, also apply to any outsourced activities.